1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF LOS ANGELES
3 DEPARTMENT 308 HON. CHARLES MC COY, JUDGE
4 RICHARD BOEKEN,)
5 PLAINTIFF,)
6)
) CASE NO. BC226593
7 VS.)
)
8 PHILIP MORRIS,) VOLUME 30B
INCORPORATED, A)
9 CORPORATION; INTERNATIONAL)
HOUSE OF PANCAKES)
10 INCORPORATED, A)
CORPORATION.)
11)
DEFENDANTS.)
12 _____)
13 REPORTER'S DAILY TRANSCRIPT OF PROCEEDINGS
14 TUESDAY, MAY 8TH, 2001
15 APPEARANCES:
16 (FOR PLAINTIFF) LAW OFFICES OF
MICHAEL J. PIUZE
17 11755 WILSHIRE BLVD.
SUITE 1170
18 LOS ANGELES, CA 90025
19 (FOR DEFENDANTS) ARNOLD & PORTER
BY: MAURICE A. LEITER
20 JOHN CARLTON
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LISA C. RIDLEY
23 OFFICIAL REPORTER
600 S. COMMONWEALTH AVE.
24 ROOM 308
LOS ANGELES, CA 90005
25
VOLUME 30B OF
26 PAGES 4933 THROUGH 5017
27
28

1 LOS ANGELES, CALIFORNIA; TUESDAY, MAY 8TH, 2001
2 1:30 P.M.
3 DEPARTMENT 308 HON. CHARLES MC COY, JUDGE
4
5 (THE FOLLOWING PROCEEDINGS
6 WERE HELD IN OPEN COURT IN
7 THE PRESENCE OF THE JURY.)
8
9 THE COURT: OUR JURY PANEL IS WITH US,
10 COUNSEL ARE PRESENT AS WELL.
11 GOOD AFTERNOON ALL OF YOU.
12 OUR WITNESS IS ON THE STAND.
13 MA'AM, YOU UNDERSTAND YOU ARE STILL
14 UNDER OATH.
15 THE WITNESS: YES.
16 THE COURT: MR. CARLTON.
17 MR. CARLTON: THANK YOU, YOUR HONOR.
18 THE COURT: YES, SIR.
19

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20
21 DEBORAH HOSHIZAKI,
22 CALLED AS A WITNESS BY THE DEFENSE, HAVING BEEN
23 PREVIOUSLY DULY SWORN, RESUMED THE WITNESS STAND
24 AND TESTIFIED FURTHER AS FOLLOWS:
25 /// /// ///
26 /// /// ///
27 /// /// ///
28 /// /// ///
4934
1 DIRECT EXAMINATION (RESUMED)
2
3 BY MR. CARLTON:
4 Q. GOOD AFTERNOON.
5 NOW, WHERE WE LEFT OFF, YOU WERE
6 TALKING ABOUT THE S.A.B. AND WHAT I'D LIKE TO ASK
7 IS HAVE YOU REVIEWED GRANT APPLICATIONS FOR THE
8 S.A.B., TO THE S.A.B.?
9 A. YES, I HAVE.
10 Q. HAVE YOU REVIEWED THEIR COMMENTS ON
11 THOSE GRANT APPLICATIONS?
12 A. YES, I HAVE.
13 Q. HAVE YOU REVIEWED GRANTS THAT WERE
14 AWARDED?
15 A. YES.
16 Q. IN THE COURSE OF LOOKING AT ALL OF
17 THESE THINGS, DID YOU DEVELOP AN OPINION AS TO THE
18 CRITERIA THAT THE S.A.B. USED IN AWARDING THEIR
19 GRANTS?
20 A. YES, I DID.
21 Q. AND WHAT CRITERIA DID YOU SEE BEING
22 APPLIED?
23 A. THE CRITERIA WAS BASED ON THE
24 SCIENTIFIC MERIT OF THE GRANT APPLICATION. WAS THE
25 WORK RELEVANT TO THE RESEARCH FOCAL AREAS OF C.T.R.
26 WERE THE EXPERIMENTS REASONABLE EXPERIMENTS TO DO.
27 WAS THE RESEARCHER CAPABLE OF
28 CARRYING OUT THAT WORK, WAS THE INSTITUTION AT
4935
1 WHICH THE WORK WOULD BE DONE, DID THE INSTITUTION
2 ACTUALLY HAVE ALL THE FACILITIES NECESSARY TO CARRY
3 OUT THE WORK.
4 Q. NOW, MAYBE IT'S JUST ME, I HAD A
5 LITTLE TROUBLE UNDERSTANDING YOU.
6 DO YOU THINK YOU COULD SPEAK INTO
7 THE MICROPHONE A LITTLE MORE. IT COULD BE JUST ME.
8 A. OKAY, THAT'S THAT.
9 Q. ALL RIGHT.
10 THAT SOUNDS BETTER?
11 A. SO THE CRITERIA FOR RANKING GRANTS
12 WAS BASED ON THE SCIENTIFIC MERIT OF THE PROPOSAL,
13 THAT WOULD MEAN WHETHER OR NOT THE -- THEY FELT
14 THAT THE WORK COULD BE CARRIED OUT BY THE PERSON
15 WHO WAS PROPOSING THE WORK, WHETHER THE INSTITUTION
16 HAD THE FACILITIES WHICH WOULD ALLOW THE WORK TO BE
17 SUCCESSFULLY CARRIED OUT, WERE THE PROPOSAL IDEAS
18 ACTUAL THINGS THAT THEY WANTED TO DO, APPROPRIATE,
19 DID THOSE THINGS ACTUALLY FIT IN WITH THE RESEARCH
20 FOCUS AREAS OF C.T.R.
21 Q. ALL RIGHT. NOW, THE S.A.B. WOULD
22 GET GRANT APPLICATIONS FROM PEOPLE AROUND THE
23 COUNTRY; RIGHT?
24 A. CORRECT.

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25 Q. THEY WOULD REVIEW THE GRANT
26 APPLICATIONS?
27 A. YES.
28 Q. AND THEY MAKE RECOMMENDATIONS; IS
4936
1 THAT RIGHT?
2 A. YES. THE S.A.B. WOULD THEN MAKE A
3 RECOMMENDATION TO THE DIRECTOR OF THE SCIENTIFIC
4 DIRECTOR.
5 Q. AND I THINK YOU SAID, THAT'S PRETTY
6 MUCH THE WAY MANY OF THESE INSTITUTIONS WORK?
7 A. YES. THE NATIONAL INSTITUTES OF
8 HEALTH, FOR EXAMPLE, HAS A STUDY SECTION WHICH IS
9 EQUIVALENT TO THE C.T.R. S.A.B.
10 THE STUDY SECTION WOULD REVIEW
11 GRANTS IN THE SAME FASHION AND THEY WOULD MAKE A
12 RECOMMENDATION TO THESE STUDY, THE PERSON WHO'S THE
13 HEAD OF THE STUDY SECTION, AND WE USE THE TERM
14 "RECOMMENDATION," IT'S NOT TO SAY THAT THAT
15 RECOMMENDATION WAS IGNORED, IT'S A RECOMMENDATION
16 OF HOW THE GRANTS ARE ARRANGED AND WHAT SHOULD BE
17 FUNDED.
18 Q. ARE YOU FAMILIAR WITH THE FIRST
19 SCIENTIFIC DIRECTOR THAT C.T.R. HAD?
20 A. YES, I AM.
21 Q. ALL RIGHT.
22 AND YOU HAVE PREPARED A
23 DEMONSTRATIVE RELATING TO HIM?
24 A. YES, I HAVE.
25 Q. AND ACTUALLY, THIS DEMONSTRATIVE IS
26 EXHIBIT 11055.
27 /// /// ///
28 /// /// ///
4937
1 * (EXHIBIT 11,055,
2 DEMONSTRATIVE, MARKED FOR I.D.)
3
4 Q BY MR. CARLTON: CAN YOU TELL US A
5 LITTLE BIT ABOUT DR. CLARENCE COOK LITTLE, C.T.R.'S
6 FIRST SCIENTIFIC DIRECTOR?
7 A. YES. THAT PHOTOGRAPH, I DON'T KNOW
8 IF YOU CAN SEE IT, BUT HE IS HOLDING A LITTLE MOUSE
9 IN HIS HAND.
10 I SAW THIS PHOTOGRAPH A YEAR AGO
11 WHEN DR. LITTLE WAS BEING HONORED IN "SCIENCE"
12 MAGAZINE FOR HIS WORK IN DEVELOPING PURE BRAIN
13 STRAINS OF MICE.
14 AND SO DR. LITTLE WAS, IN FACT, THE
15 FOUNDING DIRECTOR OF JACKSON MEMORIAL LABORATORIES.
16 AND THAT IS THE BIG LABORATORY IN OUR COUNTRY WHICH
17 HOUSES HUNDREDS OF DIFFERENT STRAINS OF MICE NOW.
18 AND THESE STRAINS OF MICE HAVE BEEN EXTREMELY
19 IMPORTANT IN OUR UNDERSTANDING OF CANCER.
20 SO HE WAS THE FOUNDER OF JACKSON
21 LAB. HE WAS ALSO, IF YOU LEAD DOWN, HE WAS THE
22 PRESIDENT OF THE AMERICAN ASSOCIATION FOR CANCER
23 RESEARCH. THAT IS NOW -- I AM SORRY -- ONE UP, HE
24 WAS THE MANAGING DIRECTOR OF THE AMERICAN SOCIETY
25 FOR THE CONTROL OF CANCERS WHICH IS NOW THE
26 AMERICAN CANCER SOCIETY.
27 SO HE WAS INVOLVED IN DIFFERENT
28 GROUPS WHO WERE CONCERNED ABOUT FINDING CURES FOR
4938

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CANCER.
HE WAS ALSO, TOWARDS THE BOTTOM, A
MEMBER OF THE NATIONAL ADVISORY CANCER COUNCIL.
SO WHAT DOES THAT MEAN?
IT MEANS THAT HE WAS ONE OF THE
MEMBERS OF THE SCIENTIFIC ADVISORY BOARD TO THE
NATIONAL CANCER INSTITUTIONS WHICH IS A BRANCH OF
THE NATIONAL INSTITUTES OF HEALTH.
SO THIS PARTICULAR N.C.I., NATIONAL
CANCER INSTITUTION, WAS MANDATED BY CONGRESS TO BE
FOCUSED ON FINDING CURES FOR CANCER.
AND DR. LITTLE IS ONE OF THE
ADVISORY BOARD MEMBERS.
AND SO DR. LITTLE, BEFORE BECOMING
THE FIRST SCIENTIFIC DIRECTOR OF C.T.R., HAD
ALREADY MADE A MARK IN SCIENCE, HAD BEEN
WELL-ACKNOWLEDGED IN A VARIETY OF WAYS, BASED ON
HIS POSITIONS.
AND CERTAINLY, THE LAST BULLET WE
HAVE THERE, HE WAS A MEMBER OF THE NATIONAL ACADEMY
OF SCIENCES.
THIS ACADEMY, YOU NEED TO BE
INVITED TO JOIN THE ACADEMY AND THEY ONLY INVITE
PROBABLY ONE PERCENT OF SCIENTISTS IN THIS COUNTRY.
SO IT IS A VERY PRESTIGIOUS
ACADEMY.
Q. WOULD YOU SAY THAT DR. LITTLE,
C.T.R.'S FIRST SCIENTIFIC DIRECTOR, WAS A MAN WITH
4939
THAT NATIONAL REPUTATION BEFORE HE ASSUMED THAT
POSITION?
A. YES, HE WAS.
Q. NOW, ARE YOU ALSO FAMILIAR WITH THE
BACKGROUND OF C.T.R.'S OTHER SCIENTIFIC DIRECTORS?
A. YES, I AM.
Q. LET ME ASK, WHAT WAS THE, WHAT WAS
DR. LITTLE'S TENURE, HOW LONG WAS HE IN THE
POSITION OF C.T.R. SCIENTIFIC DIRECTOR,
DO YOU KNOW?
A. WELL, HE WAS THEIR FIRST SCIENTIFIC
DIRECTOR UNTIL HIS DEATH IN 1971.
Q. ALL RIGHT. THIS NEXT DEMONSTRATIVE
IS EXHIBIT 11056.

* (EXHIBIT 11,056,
DEMONSTRATIVE, MARKED FOR I.D.)

Q BY MR. CARLTON: AND CAN YOU TELL
US, DOCTOR, ABOUT THE SCIENTIFIC DIRECTOR WHO
FOLLOWED DR. LITTLE?
A. WELL, FOLLOWING DR. LITTLE WAS DR.
GARDNER. AND AS YOU CAN SEE, HE WAS A PROFESSOR
AND CHAIR OF THE ANATOMY DEPARTMENT AT YALE MEDICAL
SCHOOL. AGAIN, HE WAS A PRESIDENT OF THE
INTERNATIONAL UNION AGAINST CANCER. HE ALSO WAS A
PRESIDENT OF THE AMERICAN ASSOCIATION OF CANCER
RESEARCH AND HE WAS ALSO A MEMBER OF THE NATIONAL
4940
CANCER INSTITUTE, AGAIN, AS A SCIENTIFIC ADVISORY
BOARD MEMBER.
FOLLOWING DR. GARDNER, WE HAVE DON
SOMMORS, AND AGAIN, THIS INDIVIDUAL WAS
WELL-ACKNOWLEDGED IN HIS FIELD. HE WAS HEAD OF

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6 PATHOLOGY AT LENOX HILL HOSPITAL, A FACULTY MEMBER
7 AT BOTH HARVARD AND COLUMBIA MEDICAL SCHOOLS.
8 FOLLOWING DR. SOMMORS IS DR. GLENN
9 AND DR. MCALLISTER. AND THESE INDIVIDUALS HAD
10 VARIOUS POSITIONS WITHIN THE BIOMEDICAL FIELDS.
11 AND ALL OF THESE INDIVIDUALS HERE WERE WELL-SUITED
12 TO BE SCIENTIFIC DIRECTORS OF C.T.R.
13 Q. ARE THESE INDIVIDUALS WHO HAD
14 SIGNIFICANT CAREERS AND REPUTATIONS BEFORE THEY
15 ASSUMED THESE POSITIONS?
16 A. YES, THEY DID.
17 Q. NOW, YOU HAVE TOLD US THAT THE
18 S.A.B. WOULD REVIEW GRANTS AND MAKE RECOMMENDATIONS
19 TO THESE SCIENTIFIC DIRECTORS. DID YOU NOTICE HOW
20 OFTEN DID THE SCIENTIFIC DIRECTOR JUST NOT PAY
21 ATTENTION TO THOSE RECOMMENDATIONS?
22 A. WELL, FROM MY REVIEW OF THE
23 RECORDS, I CANNOT ACTUALLY RECALL ANY TIME IN WHICH
24 THERE ARE GRANTS WHERE THE RECOMMENDATIONS WERE NOT
25 FOLLOWED. I THINK YOU HAVE TO REALIZE THAT YOU ARE
26 DEALING WITH A BUNCH OF SCIENTISTS AND SCIENTISTS
27 TEND TO BE EXTREMELY STUBBORN AT TIMES AND IF THEY
28 FELT THAT THEIR RECOMMENDATIONS WERE NOT BEING
4941
1 HEEDED.
2 ALL THE MEMBERS OF THE S.A.B. HAD
3 FACULTY POSITIONS ELSEWHERE. IT WOULD HAVE BEEN NO
4 PROBLEM FOR ANY OF THOSE MEMBERS JUST TO GET UP AND
5 LEAVE THE BOARD IF THEY FELT THAT THEIR
6 RECOMMENDATIONS WEREN'T BEING FOLLOWED.
7 Q. SO BASED UPON EVERYTHING YOU HAVE
8 REVIEWED, WAS THE MECHANISM THAT C.T.R. USED TO
9 REVIEW AND APPROVE GRANT APPLICATIONS, CONSISTENT
10 WITH THE FUNDING MECHANISMS USED BY OTHER
11 INSTITUTIONS IN THE BIOMEDICAL RESEARCH AREA?
12 A. IT WAS VERY SIMILAR AND, YES, IT
13 WAS EXTREMELY SIMILAR.
14 Q. WHAT I'D LIKE TO DO NOW IS TO TURN
15 SPECIFICALLY, IF WE COULD, TO C.T.R.'S PROGRAM
16 RELEVANT TO LUNG CANCER RESEARCH. CAN WE DO THAT?
17 A. UH-HUH.
18 Q. ALL RIGHT.
19 WHICH DEMONSTRATIVE IS EXHIBIT
20 11057.
21
22 * (EXHIBIT 11,057,
23 DEMONSTRATIVE, MARKED FOR I.D.)
24
25 Q BY MR. CARLTON: NOW, YOU HAVE PUT
26 THIS TOGETHER, PERHAPS YOU CAN STEP DOWN AS YOU DID
27 WITH THE OTHER BOARD AND EXPLAIN TO US WHAT ALL OF
28 THIS MEANS.
4942
1 WOULD THAT BE ALL RIGHT, YOUR
2 HONOR?
3 THE COURT: IT WOULD BE.
4 Q BY MR. CARLTON: LOOKING AT THE
5 FIRST, FIRST ITEM YOU HAVE GOT FROM, AND THIS IS --
6 WELL, TELL US WHAT DOES THIS SUMMARIZE?
7 A. SO WHAT I HAVE OUTLINED HERE IS THE
8 LUNG CANCER RESEARCH PROGRAM AND I HAVE BROKEN IT
9 UP INTO SEVERAL DIFFERENT TOPICS.
10 THESE TOPICS ARE LISTED IN PART BY

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11 WHAT WAS FUNDED AT THE EARLIEST TIMES IN THE
12 PROGRAM, DOWN TO WHAT WAS MAINLY FUNDED TOWARDS THE
13 END OF THE PROGRAM.
14 ALL RIGHT. AND SO IN THE
15 BEGINNING, IN 1954, C.T.R. DID FUND A LOT OF
16 EPIDEMIOLOGY STUDIES.
17 AND YOU HAVE TO REMEMBER THAT
18 ALTHOUGH, AND YOU HAVE HEARD FROM DR. HILL,
19 DR. DOLL, THAT THERE ARE THESE EPIDEMIOLOGY STUDIES
20 INDICATING AN ASSOCIATION BETWEEN SMOKING AND LUNG
21 CANCER.
22 THESE EPIDEMIOLOGY STUDIES
23 NEEDED -- THE C.T.R. EPIDEMIOLOGY STUDIES NEEDED TO
24 ADDRESS THE PROBLEM OF WHY IS IT THAT OF THE PEOPLE
25 WHO SMOKE, 20 PERCENT DEVELOPED LUNG CANCER, 80
26 PERCENT DON'T.
27 WHY IS IT THAT THOSE 20 PERCENT END
28 UP DEVELOPING LUNG CANCER AND 80 PERCENT OF THE
4943
1 PEOPLE DON'T.
2 WHAT MAKES THOSE INDIVIDUALS
3 DIFFERENT? WHY IS IT THAT -- HOW ARE THE 80
4 PERCENT DIFFERENT FROM THE 20 PERCENT.
5 AND --
6 Q. HOW WAS THAT IMPORTANT IN
7 UNDERSTANDING LUNG CANCER?
8 A. IT'S IMPORTANT IN TERMS OF TRYING
9 TO UNDERSTAND WHAT ARE THE CAUSES OF LUNG CANCER.
10 WE HAVE SMOKING AS SOMETHING THAT'S
11 ASSOCIATED WITH LUNG CANCER, BUT WHY IS IT 80
12 PERCENT OF THE PEOPLE ARE PROTECTED, WHY ARE THE
13 OTHER 20 PERCENT SUSCEPTIBLE FOR THE DEVELOPMENT OF
14 LUNG CANCER?
15 WHAT ARE THE OTHER FACTORS?
16 ARE THERE OTHER FACTORS OUT THERE
17 WHICH ARE MAKING THAT 80-20 DIFFERENCE.
18 SO THESE EPIDEMIOLOGY STUDIES WERE
19 FOCUSING TRYING TO DETERMINE IF AND WHAT THE OTHER
20 FACTOR MIGHT BE. IS IT AGE? IS IT OCCUPATION? IS
21 IT PERSONALITY TYPE?
22 SO TRYING TO GET THEN AT WHAT
23 DISTINGUISHES THE 80 PERCENT OF THE PEOPLE WHO
24 DON'T DEVELOP LUNG CANCER FROM THE 20 PERCENT OF
25 THE PEOPLE WHO DO DEVELOP LUNG CANCER, EVEN THOUGH
26 ALL OF THEM ARE SMOKERS.
27 Q. AND THESE WERE EPIDEMIOLOGY STUDIES
28 THAT WERE DONE BY C.T.R. GRANTEES AFTER THE DOLL
4944
1 AND HILL STUDIES AND THE EARLIER ONES WE HEARD
2 ABOUT?
3 A. YES, THEY ARE.
4 NEXT I HAVE LISTED CIGARETTE
5 SMOKING COMPONENTS ANALYSIS.
6 AND WHAT YOU NEED TO UNDERSTAND IS
7 THAT CIGARETTE SMOKE IS ACTUALLY VERY, VERY
8 COMPLEX. TODAY WE KNOW THAT CIGARETTE SMOKE HAS
9 PROBABLY SOMEWHERE BETWEEN 2,000 AND 4,000
10 DIFFERENT COMPONENTS.
11 IF WE ARE GOING TO UNDERSTAND HOW
12 CIGARETTE SMOKE IS INVOLVED IN LUNG CANCER, WE NEED
13 TO UNDERSTAND WHAT IS IT IN CIGARETTE SMOKE THAT
14 MAY BE TRIGGERING LUNG CANCER.
15 AND SO THE STUDIES THAT C.T.R.

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16 FUNDED WAS TO, ONE, TO LOOK AT THESE COMPONENTS,
17 BUT ALSO TO BE ABLE TO, BE ABLE TO DEVELOP A
18 UNIFORM CIGARETTE SMOKE SO THAT RESEARCHERS SUCH AS
19 MYSELF WOULD BE USING THE SAME REAGENTS, IN OUR
20 EXPERIMENTS AS SOMEONE ON THE OTHER SIDE OF THE
21 COUNTRY.
22 Q. WHEN YOU SAY USING THE SAME
23 REAGENTS, I AM NOT QUITE SURE WHAT THAT MEANS, BUT,
24 ARE YOU SAYING THAT IT'S IMPORTANT THAT EVERYONE
25 WHO IS TESTING SMOKE BE TESTING THE SAME SMOKE,
26 ESSENTIALLY?
27 A. THAT THEY USE THE SAME UNIFORM TYPE
28 OF SMOKE, SO YOU CAN REPRODUCE RESULTS.
4945
1 SO THAT WOULD BE CALLED A PURE
2 REAGENT, A UNIFORMED CIGARETTE SMOKE.
3 AND SO IN ORDER TO TRY TO FIGURE
4 OUT WHAT THE BAD COMPONENTS ARE IN CIGARETTE SMOKE,
5 ONE, YOU NEED TO KNOW WHAT THE COMPONENTS ARE AND
6 THEN TWO YOU NEED SOMEBODY TO BE ABLE TO TEST THEM,
7 HOW DO YOU FIGURE OUT WHAT THE BAD COMPONENTS ARE.
8 AND SO WITHIN THIS HEADING HERE,
9 C.T.R. ALSO FUNDED SOME OF THE INITIAL STUDIES TO
10 TRY TO FIGURE OUT WHAT THE BAD COMPONENTS WERE.
11 Q. WHAT TIME PERIOD ARE WE TALKING
12 ABOUT FOR THAT KIND OF STUDY?
13 A. THIS IS TAKING PLACE IN THE '50'S
14 AND '60'S.
15 Q. ALL RIGHT.
16 A. THE NEXT THING WE HAVE ON OUR LIST
17 IS HUMAN AUTOPSY AND PATHOLOGY STUDIES.
18 THESE STUDIES WERE FOCUSED ON
19 TRYING TO UNDERSTAND WHAT ARE THE CHANGES THAT GO
20 ON IN THE LUNG, WHICH MAY INDICATE THAT THE CELLS
21 ARE GOING TO BECOME CANCEROUS.
22 AND SO IN THIS STUDY, IT WAS
23 CARRIED OUT IN 12 DIFFERENT STUDIES, WITH A WHOLE
24 GROUP OF PATHOLOGISTS, AND THEY LOOKED AT 2,000
25 DIFFERENT LUNG SAMPLES.
26 AND THESE ARE LUNG SAMPLES WITH
27 PEOPLE WHO, THEY ARE LUNG SAMPLES FROM SMOKERS.
28 AND THE IDEA WAS TO ASK WHERE ARE
4946
1 THE NORMAL CELLS, WHAT ARE THE ABNORMAL CELLS, HOW
2 ARE THE CELLS STARTING TO CHARGE, AND HOW
3 FREQUENTLY DO YOU SEE CARCINOMAS, THAT IS, CELLS
4 THAT WE CAN RECOGNIZE AS BEING CANCEROUS CELLS.
5 AND WHAT THEY DISCOVERED WAS THAT
6 THERE WAS NO UNIFORM WAY OF CLASSIFYING THESE
7 CELLS. SO THE C.T.R. FUNDED PROJECT ENDED UP
8 DEVELOPING A PROPER CLASSIFICATION. WE STILL USE
9 THAT CLASSIFICATION NOW. AND FROM THESE STUDIES,
10 THEY THEN ATTEMPTED TO TRY TO CORRELATE THE CHANGES
11 IN THE LUNGS CELLS AND WHETHER OR NOT THOSE CHANGES
12 MIGHT BE PREDICTIVE OF AN INDIVIDUAL DEVELOPING
13 LUNG CANCER.
14 Q. ALL RIGHT. SO C.T.R. FUNDED GRANTS
15 THAT RESEARCHED PRE-CANCEROUS CHANGES IN LUNG
16 TISSUE?
17 A. IN AN ATTEMPT TO IDENTIFY
18 PRE-CANCEROUS CHANGES, YES.
19 AND DOWN HERE, THESE ARE ANIMAL
20 MODEL EXPERIMENTS OR ANIMAL MODEL STUDIES. AND I

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21 AM GOING TO FOCUS FIRST ON THE SKIN PAINTING
22 STUDIES.
23 SO REMEMBER BACK HERE WE'D LIKE TO
24 FIND OUT WHAT THE BAD COMPONENTS ARE. HOW DO WE DO
25 THAT? WE NEED SOMEBODY TO BE ABLE TO TEST IT AND
26 ONE WAY IS TO GO BACK TO THE SKIN PAINTING
27 EXPERIMENTS WHERE YOU ARE TAKING AN EXTRACT OF
28 CIGARETTE SMOKE AND PAINTING IT ON THE BACKS OF
4947
1 THESE LITTLE MICE.
2 C.T.R. FUNDED A LOT OF ANIMAL MODEL
3 STUDIES. THE PROBLEM WITH THE SKIN PAINTING
4 STUDIES IS THAT THESE ANIMALS AREN'T DEVELOPING
5 LUNG CANCER. YOU ARE PAINTING SOMETHING ON THE
6 BACKS OF MICE AND IT REALLY DOESN'T MIMIC THE
7 PROBLEMS OF LUNG CANCER.
8 YOU WANT AN ANIMAL MODEL IN WHICH
9 THE ANIMAL IS INHALING SMOKE AND ASKING NOW WHETHER
10 OR NOT THE ANIMAL DEVELOPS LUNG CANCER.
11 Q. WELL, JUST STAYING WITH THE SKIN
12 PAINTING FOR A MOMENT, ARE YOU FAMILIAR WITH THE
13 BACH AND MOORE?
14 A. YES.
15 Q. WHO ARE THEY?
16 A. BACH AND MOORE WERE TWO C.T.R.
17 RECIPIENTS, GRANT RECIPIENTS.
18 ONE OF THE PROBLEMS THAT THEY WERE
19 FINDING WITH THE SKIN PAINTING EXPERIMENTS, SAY, OF
20 WYNDER AND GRAHAM, WAS THAT IT WAS VERY DIFFICULT
21 FOR THOSE EXPERIMENTS TO BE REPEATED BY OTHER
22 RESEARCHERS.
23 AND THAT'S ONE OF THE THINGS THAT
24 WE DO IN SCIENCE IS THAT IF SOMETHING REALLY IS
25 TRUE, YOU SHOULD BE ABLE TO REPEAT IT AND OTHER
26 PEOPLE SHOULD BE ABLE TO REPEAT IT AND YOU SHOULD
27 BE ABLE TO GET THE SAME RESULTS.
28 WHAT BACH AND MOORE DID IS THEY
4948
1 LOOKED AT WYNDER'S EXPERIMENTS AND WHAT THEY
2 FIGURED OUT WAS THAT THE REASON WHY IT WAS
3 DIFFICULT TO REPEAT WYNDER AND GRAHAM'S EXPERIMENTS
4 IS THAT CIGARETTE SMOKE IS REALLY A VERY WEAK
5 CARCINOGEN.
6 WHAT BACH AND MOORE WERE ABLE TO DO
7 WAS SHOW THAT IF YOU ADD TO THAT WEAK CARCINOGEN,
8 THE CIGARETTE SMOKE, A CO-CARCINOGEN.
9 Q. WHAT'S A CO-CARCINOGEN?
10 A. A CO-CARCINOGEN IS SOMETHING THAT,
11 IN AND OF ITSELF, IS NOT A CARCINOGEN, BUT IF YOU
12 ADD IT TO A WEAK CARCINOGEN, NOW YOU GET A MUCH
13 MORE PRONOUNCED EFFECT.
14 AND SO IN BACH AND MOORE'S
15 EXPERIMENTS, THEY DID THE SKIN PAINTING EXPERIMENTS
16 BUT THEY ADDED A CO-CARCINOGEN. AND WHAT THEY WERE
17 ABLE TO DO NOW IS GET ANIMALS THAT DEVELOPED SKIN
18 CANCER MUCH MORE QUICKLY. AND THEY WOULD HAVE MORE
19 TUMORS AND THEY CAN ACTUALLY START TO QUANTITATE,
20 THEY COULD ACTUALLY USE THESE SKIN PAINTING ASSAYS
21 AS A WAY OF QUANTITATING THE AMOUNT OF BADNESS OR
22 CANCEROUS GENES WHICH ARE IN THE COMPONENTS THEY
23 WERE TESTING.
24 Q. ALL RIGHT. NOW, YOU MENTIONED
25 THERE'S ANOTHER PART TO THESE ANIMAL MODEL

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26 EXPERIMENTS AND THAT'S SMOKE INHALATION TESTS?
27 A. YES.
28 SKIN PAINTING STUDIES DON'T MIMIC
4949
1 WHAT HAPPENED IN A SMOKER. SO A LOT OF MONEY WAS
2 SPENT TRYING TO DEVELOP CIGARETTE SMOKE INHALATION
3 TESTS, THAT IS, USING ANIMALS, HAVING THEM INHALE
4 SMOKE AND SEEING WHETHER OR NOT THOSE ANIMALS WOULD
5 DEVELOP LUNG CANCER, CARCINOGENIC, CARCINOMAS, THE
6 TYPE THAT HUMANS WOULD DEVELOP. AND EVEN TODAY WE
7 DO NOT HAVE AN ANIMAL MODEL FOR SMOKE INHALATION IN
8 THE DEVELOPMENT OF CARCINOMAS.
9 C.T.R. SPENT CLOSE TO 15 -- 13
10 MILLION DOLLARS IN TRYING TO DEVELOP AN ANIMAL
11 MODEL FOR THESE INHALATION TESTS. THEY FUNDED
12 RESEARCHERS WHO DID IT IN RATS, MONKEYS, HAMSTERS,
13 CHICKENS, DUCKS, BABOONS, THEY TRIED ALL SORTS OF
14 ANIMALS AND WERE UNSUCCESSFUL.
15 AND AS OF TODAY, WE STILL DON'T
16 HAVE A MODEL SYSTEM FOR THESE INHALATION STUDIES.
17 Q. DID THE SURGEON GENERAL EVER
18 COMMENT ON THESE ANIMAL MODEL SMOKE INHALATION
19 TESTS?
20 A. YES. IN THE '82 SURGEON GENERAL'S
21 REPORT, HE SUMMARIZES THESE ATTEMPTS TO DEVELOP AN
22 ANIMAL MODEL SYSTEM. AND IN FACT, THE FINAL BOTTOM
23 LINE IS THAT THERE'S BEEN A CONCERT EFFORT AND
24 REALLY MORE MONEY SPENT IN DOING THESE TYPES OF
25 STUDIES WOULD BE NOT VERY PRODUCTIVE. AND THE
26 SUGGESTION WAS, BY THE SURGEON GENERAL, IS THAT THE
27 TYPES OF STUDIES THAT SHOULD BE DONE NOW IS REALLY
28 FOCUSING MORE ON THIS BASIC CELLULAR AND BIOMEDICAL
4950
1 RESEARCH. THAT'S A MOUTHFUL.
2 WHAT DOES THAT MEAN? THAT MEANS
3 START TO LOOK AT THE ACTUAL CELLS AND TO START TO
4 LOOK AT THE GENES AND TO LOOK AT THIS AT THE
5 MOLECULAR LEVEL.
6 Q. LET'S JUST GO BACK TO THE SURGEON
7 GENERAL'S REPORT FOR A MOMENT.
8 DOES THAT DEPICT THE SURGEON
9 GENERAL'S REPORT THAT YOU WERE REFERRING TO?
10 A. YES, IT DOES.
11 Q. THIS IS EXHIBIT 11058.
12
13 * (EXHIBIT 11,058,
14 DEMONSTRATIVE, MARKED FOR I.D.)
15
16 Q BY MR. CARLTON: AND DID YOU READ
17 THE FIRST TWO PARAGRAPHS THERE UNDER -- HAVE YOU
18 READ THAT?
19 A. I THINK SO.
20 "TOBACCO CARCINOGENSIS HAS
21 BEEN INTENSELY STUDIED FOR MORE THAN
22 25 YEARS --"
23 Q. SLOW DOWN A BIT. THE COURT
24 REPORTER HAS TO TAKE THIS ALL DOWN.
25 A. (READING)
26 " -- BY EPIDEMIOLOGISTS,
27 CHEMISTS, BIOCHEMISTS, TOXICOLOGISTS
28 AND PATHOLOGISTS. AS A RESULT, THERE
4951
1 IS A MUCH EXPANDED KNOWLEDGE OF THE

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2 MAJOR FACTORS CONTRIBUTING TO THE
3 TOXICITY AND CARCINOGENICITY OF
4 CIGARETTE SMOKE. NONETHELESS,
5 SIGNIFICANT GAPS IN THAT KNOWLEDGE
6 REMAIN. BENIGN AND MALIGNANT TUMORS
7 HAVE BEEN INDUCED -- INDUCED IN THE
8 LARYNX --"
9 Q. JUST BEFORE WE GO ON, THE LARYNX IS
10 THE THROAT?
11 A. THE THROAT.
12 "-- THE LARYNX OF HAMSTERS
13 BY LONG-TERM EXPOSURE TO DILUTED
14 CIGARETTE SMOKE. ATTEMPTS TO INDUCE
15 SIGNIFICANT NUMBERS OF BRONCHOGENIC
16 CARCINOMA IN LABORATORY ANIMALS WERE
17 NEGATIVE."
18 Q. IS BRONCHOGENIC CARCINOMA ANOTHER
19 TERM FOR LUNG CANCER?
20 A. IT IS THE TYPE OF LUNG CANCER WHICH
21 IS ASSOCIATED WITH SMOKING.
22 Q. ALL RIGHT.
23 A. (READING)
24 "-- IN LABORATORY ANIMALS
25 WERE NEGATIVE IN SPITE OF MAJOR
26 EFFORTS WITH SPECIAL SPECIES AND
27 STRAINS, NEITHER RATS NOR HAMSTERS NOR
28 BABOONS INHALE CIGARETTE SMOKE AS
4952
1 DEEPLY AND AS INTENSELY AS
2 CIGARETTE -- AS THE CIGARETTE SMOKERS
3 WHO HAVE PROVIDED THE DATA WITH THE
4 CONSEQUENCES THAT THEIR, QUOTE,
5 EXPERIMENT IN THE FORM OF CLINICAL
6 EVIDENCE GATHERED BY EPIDEMIOLOGISTS.
7 IN THE VIEW OF THIS COMPELLING
8 EVIDENCE, IT APPEARS THAT THE
9 EXPERIMENTAL INDUCTION OF BRONCHOGENIC
10 CARCINOMA SHOULD RECEIVE LIMITED
11 PRIORITY AS A RESEARCH GOAL."
12 Q. SO TO SORT OF SUMMARIZE WHAT THE
13 SURGEON GENERAL WAS SAYING THERE, HE WAS
14 RECOMMENDING THAT THEY MOVE ON FROM ANIMAL
15 INHALATION EXPERIMENTS; RIGHT?
16 A. CORRECT.
17 Q. AND WHAT WAS THE SURGEON GENERAL
18 RECOMMENDING BE DONE?
19 A. THE SURGEON GENERAL RECOMMENDED
20 THAT REALLY THE FOCUS SHOULD BE MORE ON A CELLULAR,
21 LOOKING AT THIS ON A CELLULAR LEVEL, LOOKING AT THE
22 SPECIFIC CELLS AND ON A MOLECULAR LEVEL IN TERMS OF
23 LOOKING AT WHAT GENES ARE INVOLVED IN THIS PROCESS.
24 Q. HAD C.T.R. ALREADY BEEN DOING THAT?
25 A. YES. THIS IS AN EXCERPT FROM THE
26 1960 C.T.R. ANNUAL REPORT. AND WHAT'S BEEN
27 HIGHLIGHTED UP HERE IS THEIR ANNOUNCEMENT THAT YOU
28 MUST CONTINUE TO PROMOTE TRULY BASIC RESEARCH IN
4953
1 THE INTRACELLULAR PROCESSES OF LIFE. AND IN THE
2 MULTI-CELLULAR LIVING ORGANIZATION EVEN THOUGH IN
3 SOME INSTANCES, THIS WILL HAVE NO OBVIOUS OR
4 IMMEDIATE CONNECTION WITH THE PRACTICAL QUESTION OF
5 TOBACCO AND HEALTH.
6 Q. BEFORE WE GO ON WITH THIS, THIS

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7 EXHIBIT IS 11059.
8
9 * (EXHIBIT 11,059,
10 DEMONSTRATIVE, MARKED FOR I.D.)
11
12 Q BY MR. CARLTON: ALL RIGHT. SO
13 YOU READ US A QUOTE FROM THE 1960 C.T.R. ANNUAL
14 REPORT. WHAT DOES THAT MEAN?
15 WHAT DID YOU JUST READ TO US?
16 A. WHAT THIS MEANS IS THAT, THAT THEY
17 ARE GOING TO START TO FUND RESEARCH WHICH IS GOING
18 TO LOOK AT LUNG CANCER NOT THROUGH EPIDEMIOLOGY
19 STUDIES, BUT LOOK AT LUNG CANCER IN TERMS OF THE
20 CELLS THAT ARE INVOLVED AND START TO LOOK AT WHAT
21 GENES ARE INVOLVED IN THIS PROCESS.
22 Q. SO IN 1960, C.T.R. WAS SAYING IT
23 WAS GOING TO DO THE SAME KIND OF RESEARCH THAT THE
24 SURGEON GENERAL WAS RECOMMENDING IN 1982?
25 A. CORRECT.
26 Q. ALL RIGHT. SO WE ARE BACK TO YOUR
27 LIST OF THE RESEARCH THAT C.T.R. DID IN LUNG CANCER
28 AND WE ARE TO THE FINAL ENTRY THERE, BASIC CELLULAR
4954
1 AND MOLECULAR BIOMEDICAL RESEARCH.
2 WHAT KIND OF RESEARCH DID C.T.R. DO
3 IN THAT AREA?
4 A. IN THIS AREA HERE, THIS NOW GOES
5 BACK TO REALLY STARTING TO IDENTIFY WHAT HAPPENS
6 WHEN CELLS GO BAD, WHAT HAPPENS WHEN CELLS BECOME
7 CANCEROUS.
8 WHAT PROGRAMS, WHAT GENES HAVE TO
9 GO WRONG IN ORDER FOR A CELL TO BECOME CANCEROUS?
10 WHAT ARE THE THINGS, ARE THE OTHER THINGS THAT
11 HAPPEN IN THE BODY IN ORDER FOR THE CELLS TO
12 ACTUALLY BECOME A MALIGNANT CANCER.
13 AND SO WE ARE GETTING TO MORE
14 MOLECULAR AND CELLULAR STUDIES, AND THIS, IN PART,
15 WAS IN KEEPING WITH THE DEVELOPMENT OF NEW
16 TECHNOLOGY WHICH ACTUALLY ALLOWED US TO BE ABLE TO
17 CLONE GENES AND TO START TO MANIPULATE GENES.
18 Q. OKAY. I THINK, WAS C.T.R. A BIT
19 AHEAD OF ITS TIME IN THIS RESPECT?
20 A. YES, IT WAS. IT WAS, BUT I THINK
21 THAT WAS DUE TO THE EXPERIENCE OF THE MEMBERS ON
22 THE S.A.B.
23 Q. NOW, WHAT I'D LIKE TO DO IS TO GO
24 BACK TO THE BOARD THERE TO YOUR LEFT, BUT IT MIGHT
25 BE A LITTLE EASIER FOR EVERYBODY IF WE ALSO PULL IT
26 UP HERE, AND I THINK -- THERE IT IS.
27 CAN YOU, LOOKING AT THIS, TELL US A
28 LITTLE BIT ABOUT RESEARCH THAT C.T.R. FUNDED IN THE
4955
1 DIFFERENT AREAS THAT YOU HAVE TOLD US ABOUT?
2 A. OKAY. THIS MAY BE A LITTLE
3 TECHNICAL BUT LET'S SEE HOW WE DO HERE.
4 WE TALKED BACK HERE ABOUT NEEDING
5 TO GET CELL MUTATIONS. AND PART OF WHAT C.T.R.
6 FUNDED --
7 Q. LET ME STOP YOU FOR A SECOND. WHEN
8 YOU SAY "NEEDING TO GET CELL MUTATIONS," DO YOU
9 MEAN THAT YOU CAN'T HAVE CANCER UNLESS YOU HAVE
10 CELL MUTATIONS?
11 A. CORRECT.

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12 Q. OKAY?
13 A. SO AT THE START OF THIS PROCESS,
14 THE DEVELOPMENT OF CANCER, CELL MUTATIONS NEED TO
15 OCCUR.
16 C.T.R. FUNDED RESEARCH INTO
17 UNDERSTANDING HOW THAT OCCURS, HOW DO THOSE
18 MUTATIONS OCCUR.
19 AND FOR EXAMPLE, DR. BENEDICT, WHO
20 WAS HERE AT USC, WHAT HE NOTED WAS THAT IF YOU LOOK
21 AT LUNG CANCER CELLS, NOT IN THE PATIENT, BUT FROM
22 A BIOPSY, LOOK AT THOSE CELLS ON A TISSUE CULTURE
23 PLATE THAT YOU ARE GROWING THEM IN CULTURE, THAT
24 THOSE CELLS HAD THIS GROSS CHROMOSOMAL
25 REARRANGEMENTS.
26 THAT JUST MEANS THAT THE DNA HAS
27 MADE SOME BIG CHANGES.
28 THOSE BIG CHANGES CONTRIBUTED TO
4956
1 THESE CELL MUTATIONS.
2 BUT HE CARRIED ON THOSE STUDIES
3 FUNDED BY C.T.R. TO SHOW THAT IF HE HAD RATS THAT
4 HAD BEEN TAKING IN CIGARETTE SMOKE FOR LONG PERIODS
5 OF TIME, HE COULD NOW FIND CELLS IN THE RAT THAT
6 HAD THESE SAME GROSS CHROMOSOMAL CHANGES.
7 SO THIS STARTS TO PROVIDE A DIRECT
8 LINK BETWEEN CIGARETTE SMOKING AND THIS PROCESS OF
9 CANCER.
10 BUT REMEMBER, WE ARE ONLY UP HERE,
11 A LOT OF OTHER THINGS NEED TO HAPPEN.
12 C.T.R. FUNDED RESEARCH INTO WHAT
13 ARE CALLED DNA ADDUCTS, THAT IS, DNA. SO THIS IS
14 THE DNA. IF YOU HAVE CHEMICALS WHICH SORT OF STICK
15 ON TO THE DNA, THAT'S A BAD THING AND THAT'S CALLED
16 A DNA ADDUCT.
17 AND THAT'S OKAY PROVIDED THE CELL
18 DOESN'T DIVIDE, THE DNA DOESN'T TRY TO REPLICATE.
19 BUT IF THE DNA REPLICATES, THAT ADDUCT, THIS CLUMP
20 OF CHEMICALS STUCK HERE IS GOING TO CAUSE
21 MUTATIONS.
22 SO THIS GETS BACK IN TO HOW DO WE
23 MAKE THESE CELL MUTATIONS.
24 AND C.T.R. FUNDED RESEARCH SHOWED
25 THAT IF YOU HAD MICE THAT WERE TAKING IN CIGARETTE
26 SMOKE FOR LONG PERIODS OF TIME, THAT THEY COULD BE
27 FOUND IN THOSE MICE NOW AN INCREASE IN THESE DNA
28 ADDUCTS, THE FACT OF HAVING CHEMICALS STUCK TO THE
4957
1 DNA.
2 SO THAT PROVIDES US ANOTHER CLUE
3 THEN AS TO HOW THESE CELL MUTATIONS ARE BEING MADE.
4 Q. SO IF THERE ARE DNA ADDUCTS, THAT'S
5 A SIGN THAT YOU MAY BE GOING DOWN THE ROAD TOWARDS
6 CANCER?
7 A. IT'S A SIGN THAT YOU ARE GOING TO
8 MAKE DNA MUTATIONS, DNA MUTATIONS ARE NECESSARY TO
9 GO DOWN THIS PATHWAY.
10 Q. AND CERTAIN DNA ADDUCTS ARE
11 CONNECTED WITH SMOKING?
12 A. WE NOW KNOW THAT THERE'S A HIGH
13 CORRELATION OF CERTAIN DNA ADDICTS THROUGH SMOKING,
14 BASED ON WORK THAT WAS FUNDED BY C.T.R.
15 WE ARE GOING TO GET THESE CELL
16 MUTATIONS HERE. WITH THESE MUTATIONS THEN, WE HAVE

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GONE BACK TO THE CELL DIVISION PROGRAM. SO NOW THE
CELLS ARE DIVIDING, THEY ARE DOING A LOT OF CELL
DIVIDING. SOMETIMES THE DNA IS MAKING MISTAKES AND
NORMALLY THEN WE WOULD GET THE CELL DEATH PROGRAM
TURNED ON.
C.T.R. DID A LOT OF RESEARCH TO
IDENTIFY THOSE CELL DEATH GENES AND WHAT WE NOW
KNOW IS THAT IN A CANCER, LUNG CANCER CELL, THAT
THE CELL DEATH GENES HAVE BEEN TURNED OFF.
AND SO AS THESE CELLS PROLIFERATE,
THEY ARE MAKING MORE AND MORE DNA MUTATIONS, BUT
THE CELL DEATH GENES ARE TURNED OFF, SO THE CELL
4958
DOESN'T DIE. THE CELL DIVISION PROGRAM IS RUNNING
RAMPANT, IT NO LONGER NEEDS GROWTH FACTORS TO COACH
IT ALONG, AND SO WE GET THE FORMATION THEN OF THESE
LITTLE TUMORS.
AND C.T.R. RECIPIENTS WORKED ON
IDENTIFYING THE GENES WHICH ARE INVOLVED IN THE
CELL DIVISION AND SOME OF THOSE GENES ARE CALLED
TUMOR SUPPRESSOR GENES WHICH MEANS THAT WHEN THEY
WORK, THEY SUPPRESS TUMORS. WHEN THEY DON'T WORK,
WHEN THEY ARE BROKEN, BECAUSE OF CELL MUTATIONS,
CELL DIVISION JUST CONTINUES ON AND IT'S NOT BEING
CONTROLLED.
C.T.R. RECIPIENTS WORKED ON
IDENTIFYING THOSE PARTICULAR GENES.
IN ADDITION THEN WE ALSO HAVE THOSE
ONCOGENES WE TALKED ABOUT EARLIER. THOSE ARE THOSE
GENES WHICH ARE SOMETIMES FOUND IN VIRUSES. C.T.R.
RECIPIENTS WERE INVOLVED IN IDENTIFYING THOUGH
ONCOGENES.
PETER VOGT, FOR EXAMPLE, WHO IS
HERE AT USC, WORKED ON IDENTIFYING THOSE. HENRY
BOSE AT UNIVERSITY OF TEXAS WAS INVOLVED IN
IDENTIFYING THOSE GENES.
SHELLY BERGER AT M.I.T. IDENTIFIED
SOME OF THESE GENES.
Q. ARE THESE ALL C.T.R. GRANTEES?
A. THESE ARE ALL C.T.R. GRANTEES.
SO WE ALSO TALKED ABOUT THAT ONCE.
4959
THE LITTLE TUMOR GETS TO BE ABOUT THE SIZE OF A PIN
HEAD, THAT WE NEED NUTRIENTS, WE NEED
VASCULARIZATION.
C.T.R. RECIPIENTS WERE INVOLVED IN
IDENTIFYING GROWTH FACTORS THAT ARE MADE BY TUMOR
CELLS WHICH ARE NECESSARY TO CONVINCE THE ADJACENT
CELLS TO START TO MAKE CAPILLARIES SO THAT THE
NUTRIENT CAN GET IN.
AS WE GO DOWN THROUGH THIS,
REMEMBER, WE SAID THAT THE TUMOR CELLS, IN ORDER TO
ESCAPE THE ENVELOPE, HAVE TO MAKE SOME SPECIAL
PROTEINS.
ONE OF THOSE PROTEINS IS UROKINASE.
Q. SPELL THAT FOR THE COURT REPORTER.
A. U-R-O-K-I-N-A-S-E.
THAT PROTEIN WAS IDENTIFIED BY A
C.T.R. RECIPIENT.
OKAY, SO WE BREAKDOWN THE CELL, THE
ENVELOPE, NOW THAT THESE CELLS CAN ESCAPE INTO THE
BLOOD STREAM AND WE SAID THAT NORMALLY THE IMMUNE
SYSTEM CAN IDENTIFY THE TUMOR SELLS AND DESTROY

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22 THEM.
23 C.T.R. RECIPIENTS WERE INVOLVED IN
24 IDENTIFYING HOW DOES THE IMMUNE SYSTEM WORK, FOR
25 EXAMPLE.
26 DR. BONO ANOTHER MOUNT SINAI
27 HOSPITAL WORKED ON ONE GENE CALLED MOTH EATEN,
28 FUNNY SOUNDING GENE, BUT IT'S ONE IN WHICH THE
4960
1 IMMUNE SYSTEM OF THE MOUTH DOESN'T WORK VERY WELL
2 AND THAT PROVIDED CLUES AS TO HOW THE IMMUNE CELLS
3 ARE IDENTIFYING THESE CANCER CELLS.
4 IN ADDITION, WE TALKED ABOUT THE
5 FACT THAT THERE ARE -- THAT THE TUMOR CELLS
6 SOMETIMES CAN DISGUISE ITSELF FROM THE IMMUNE
7 CELLS. WHAT IT DOES IS IT NO LONGER MAKES A
8 SPECIAL PROTEIN WHICH IS CALLED THE H.N.C.
9 PROTEINS. C.T.R. RECIPIENTS WERE ABLE TO SHOW THAT
10 IF YOU LOOK AT A LUNG CANCER CELL, THEY NO LONGER
11 MAKE THAT PROTEIN.
12 SO THAT'S HOW THE LUNG CANCER CELLS
13 IN THE BODY ARE ESCAPING DETECTION.
14 SO THESE CELLS THEN CAN ESCAPE THE
15 IMMUNE SYSTEM, WIGGLE OUT OF THE CAPILLARIES AND
16 CAUSE METASTASES IN OTHER PLACES.
17 DR. JOHN MINNA, ANOTHER C.T.R.
18 RECIPIENT, WAS ABLE TO PUT TOGETHER A LOT OF THIS
19 INFORMATION.
20 HE WAS ABLE TO SHOW THAT THOSE
21 TUMOR CELLS, THE MOST MALIGNANT TYPE OF LUNG CANCER
22 CELLS, HAVE TWO DIFFERENT TYPES OF RECEPTORS,
23 LITTLE PROTEINS THAT DECORATE THE OUTSIDE OF THE
24 TUMOR CELL.
25 THOSE RECEPTORS ARE OPIATE
26 RECEPTORS AND NICOTINE RECEPTORS.
27 AND WHAT HE WAS ABLE TO DEMONSTRATE
28 IS IN THAT TUMOR CELL, REMEMBER, THE CELL DEATH
4961
1 GENES ARE TURNED OFF. AND HE WAS ABLE TO SHOW THAT
2 BY ADDING TO HIS CULTURE OF CELLS SPECIAL COMPOUNDS
3 THAT WOULD BIND TO THE OPIATE RECEPTOR, THAT HE
4 COULD NOW THEN TURN BACK ON THE CELL DEATH GENES
5 AND CAUSE THE CELLS TO DIE.
6 AND SO C.T.R. RECIPIENTS ARE ALL
7 PUTTING TOGETHER LITTLE BITS OF INFORMATION WHICH
8 ARE NOW BEING PUT TOGETHER IN UNDERSTANDING WHY IS
9 IT, WHAT ARE THE CELL MUTATIONS THAT NEED TO OCCUR.
10 AND THERE'S LOTS AND LOTS OF DIFFERENT SORTS, WHAT
11 ARE THE OTHER EVENTS THAT NEED TO OCCUR, IN ORDER
12 FOR THIS ENTIRE PROCESS TO HAPPEN IN THE
13 METASTASIS.
14 Q. WERE C.T.R. GRANTEES, WAS THE
15 RESEARCH THEY DID SIGNIFICANT IN DEVELOPING OUR
16 UNDERSTANDING OF EACH OF THESE STEPS?
17 A. YES, IT CERTAINLY WAS, BECAUSE THEY
18 WERE VERY MUCH FOCUSED IN LOOKING AT THINGS,
19 SPECIFICALLY LUNG CANCER AS OPPOSED TO CANCER IN
20 GENERAL.
21 Q. NOW, WOULD IT BE FAIR TO SAY THAT
22 IF YOU WANTED TO UNDERSTAND HOW SMOKING CAUSES LUNG
23 CANCER, YOU FIRST HAVE TO UNDERSTAND HOW LUNG
24 CANCER IS CAUSED?
25 A. ABSOLUTELY. I THINK YOU CAN SEE
26 THAT THIS IS SUCH A LONG PROCESS. REMEMBER, WHAT

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27 IS IT, 30 TO 40 YEARS BEFORE YOU DEVELOP LUNG
28 CANCER. THIS IS A VERY LONG PROCESS, AND YOU NEED
4962
1 TO UNDERSTAND THE INDIVIDUAL STEPS BEFORE YOU CAN
2 START TO IDENTIFY WHAT THE CAUSAL AGENTS ARE.
3 Q. AND SMOKING MAY BE RELATED TO ONE,
4 MORE OR EVEN ALL OF THOSE STEPS; IS THAT CORRECT?
5 A. THERE'S A GOOD POSSIBILITY OF THAT.
6 Q. SO IF YOU WANTED TO FIGURE OUT HOW
7 TO FIX IT, TO FIX SMOKING, YOU WOULD HAVE TO KNOW
8 WHICH OF THESE STEPS DOES SMOKING EFFECT?
9 A. YES. YES.
10 Q. THANK YOU.
11 IN YOUR OPINION WAS THE RESEARCH
12 PROGRAM FUNDED BY C.T.R. A RESPONSIBLE RESEARCH
13 PROGRAM?
14 A. YES, IT WAS.
15 Q. DID IT FUND RESEARCH THAT WAS
16 RELEVANT TO THE ISSUE OF SMOKING AND HEALTH?
17 A. YES, IT DID.
18 Q. WAS IT RESEARCH THAT WAS
19 APPROPRIATE FOR THE TIME IN WHICH IT WAS FUNDED?
20 A. YES. NOT ONLY APPROPRIATE BUT
21 OFTENTIMES THEY WERE THE LEADERS IN OPENING NEW
22 AVENUES TO OUR UNDERSTANDING OF CANCER.
23 Q. DID C.T.R. GRANTEES GET MONEY FROM
24 OTHER SOURCES THAT ALSO CONTRIBUTED TO THEIR WORK?
25 A. YES, THEY CERTAINLY DID.
26 OTHER SOURCES SUCH AS THE AMERICAN
27 CANCER SOCIETY, THE NATIONAL CANCER INSTITUTION.
28 OTHER FUNDING AGENCIES WITHIN THE NATIONAL
4963
1 INSTITUTES OF HEALTH, NATIONAL SCIENCE FOUNDATION,
2 DAIMON RUNYON, ANNAFORD FORD, A VARIETY OF
3 DIFFERENT BIOMEDICAL FUNDING AGENCIES.
4 Q. NOW, SOME OF THE RESEARCH YOU HAVE
5 ALREADY TOLD US ABOUT, WOULD YOU CHARACTERIZE IT
6 AS, PERHAPS, FIRMING UP A LINK BETWEEN SMOKING AND
7 LUNG CANCER?
8 A. SOME OF THE RESEARCH STARTS TO
9 SOUND -- THE RESEARCH TELLS US WHAT THE STEPS ARE
10 AND FROM THAT WE CAN START TO DEDUCE THE
11 ASSOCIATION OF SMOKING WITH LUNG CANCER.
12 Q. ALL RIGHT. THIS WASN'T RESEARCH
13 THAT WAS ONLY FAVORABLE TO THE TOBACCO COMPANIES,
14 WAS IT?
15 A. NO.
16 Q. AND UNTIL THE COURSE OF YOUR
17 LOOKING THROUGH THE RESEARCH THAT WAS FUNDED AND
18 PUBLISHED BY C.T.R., DID YOU FIND EXAMPLES, OTHER
19 EXAMPLES OF RESEARCH THAT WAS, PERHAPS, NOT
20 FAVORABLE TO THE TOBACCO COMPANIES?
21 A. YES, I DID.
22 Q. AND DID YOU SELECT A FEW OF THOSE
23 FOR US TO TALK ABOUT?
24 A. YES, I DID.
25 Q. HERE'S A DEMONSTRATIVE THAT YOU
26 HAVE PREPARED AND I BELIEVE THIS IS 11,060.
27 /// /// ///
28 /// /// ///
4964
1 * (EXHIBIT 11,060,
2 DEMONSTRATIVE, MARKED FOR I.D.)

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3
4 Q BY MR. CARLTON: CAN YOU TELL US
5 ABOUT THIS. AND AGAIN, I DON'T KNOW IF YOU CAN
6 READ IT FROM WHERE YOU ARE.
7 A. NO, I THINK THIS IS FINE.
8 THIS IS AN EPIDEMIOLOGY STUDY THAT
9 WAS CARRIED OUT BY DOCTOR WARNER, AND WHAT HE IS
10 SHOWING IS THAT THEY CAN MAKE A CORRELATION BETWEEN
11 CHANGES IN THE LUNG, CHANGE IN THE LUNG CELLS WITH
12 THE INCIDENTS OF BRONCHIOGENIC CARCINOMA.
13 Q. WHAT DOES THAT MEAN?
14 A. WHAT THAT MEANS IS THAT THEY CAN
15 START TO IDENTIFY THE CELLS WHICH MAY BE PREDICTORS
16 OF LUNG CANCER AND THE FACT THAT THEY FIND THAT
17 THESE PREDICTIVE CELLS ARE PRESENT MORE EFFECTIVELY
18 IN SMOKERS THAN IN NON-SMOKERS.
19 Q. I SEE. AND HERE'S ANOTHER STUDY.
20 THIS IS EXHIBIT 1106 -- 11,061.
21
22 * (EXHIBIT 11,061,
23 DEMONSTRATIVE, MARKED FOR I.D.)
24
25 Q BY MR. CARLTON: WHAT IS THIS
26 STUDY?
27 A. IN THIS PARTICULAR STUDY, WE ARE
28 LOOKING AT CELLS WHICH ARE BEING GROWN IN THE
4965
1 LABORATORY AND WHAT THEY FIND IS THAT CERTAIN PARTS
2 OF THE CIGARETTE SMOKE CAN MAKE THOSE CELLS THAT
3 ARE BEING GROWN IN THE LABORATORY, CAN MAKE THOSE
4 CELLS TRANSFORM.
5 AND WHAT WE MEAN BY TRANSFORM,
6 TRANSFORM, TRANSFORMED CELLS ARE CELLS WHICH ARE ON
7 THEIR WAY TO BECOMING CANCEROUS CELLS.
8 IF A CELL IS TRANSFORMED, IT MEANS
9 THAT IT IS DIVIDING IN A WAY THAT IT IS NO LONGER
10 REGULATED BY EXTERNAL SOURCES.
11 SO THIS IS ONE OF THE FIRST
12 INDICATIONS THAT A CELL IS ON ITS WAY TO BECOMING A
13 CANCER CELL.
14 Q. AND THAT LINKS IT TO CIGARETTE
15 SMOKING, IN SOME FASHION?
16 A. IT LINKS IT NOT ONLY TO CIGARETTE
17 SMOKING, BUT IT IS STARTING TO IDENTIFY WHAT
18 PORTION OF CIGARETTE SMOKE MAY BE CAUSING THIS
19 INITIAL TRANSFORMATION EFFECT.
20 Q. AND HERE'S ANOTHER STUDY. THIS
21 APPEARS TO BE BY BENEDICT. I THINK YOU MENTIONED
22 HIM BEFORE.
23 A. YES.
24 AND IN THIS PARTICULAR STUDY, WHAT
25 HE WAS ABLE TO DEMONSTRATE WAS THAT IF MICE WERE
26 EXPOSED TO WHOLE CIGARETTE SMOKE, THAT THEY COULD
27 FIND IN THESE MICE THOSE GROSS CHROMOSOMAL CHANGES
28 THAT I TALKED ABOUT. AND THOSE GROSS CHROMOSOMAL
4966
1 CHANGES ARE THE SAME CHANGES THAT THEY SEE IN LUNG
2 CANCER CELLS THAT THEY GET FROM BIOPSIES FROM LUNG
3 CANCER PATIENTS.
4 Q. AND THAT WAS EXHIBIT 11,062.
5
6 * (EXHIBIT 11,062,
7 DEMONSTRATIVE, MARKED FOR I.D.)

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8
9 Q BY MR. CARLTON: AND THEN LASTLY,
10 CAN YOU TELL US ABOUT THIS STUDY WHICH WAS BY
11 GIORDANO.
12 A. YES, THIS IS A RELATIVELY RECENT
13 STUDY AND WHAT WE ARE LOOKING AT ARE PATIENTS WHO
14 HAVE LUNG CANCER. SOME OF THOSE INDIVIDUALS SMOKED
15 AND SOME OF THOSE INDIVIDUALS DID NOT SMOKE.
16 WHAT THEY ARE FINDING THERE IS THAT
17 THERE IS A CORRELATION OF A PROTEIN CALLED P-53
18 THAT YOU GET P-53 POSITIVE STAINING IN THE CELLS,
19 THE LUNG CANCER CELLS OF THE SMOKERS IN 40 PERCENT
20 OF THE TIME. AND YOU DON'T SEE THIS P-53 STAIN IN
21 NON-SMOKERS.
22 NOW, I REALIZE THAT PROBABLY SOUNDS
23 LIKE GOOBLY-GOOP. BUT WHAT THIS MEANS IS THAT THIS
24 P-53 GENE WE NOW KNOW IS EFFECTIVE IN PROBABLY
25 ONE-THIRD OF THE CANCERS THAT PEOPLE GET. SO IT'S
26 A KEY IN THE DEVELOPMENT OF CANCER.
27 THIS STUDY TELLS US THAT THE P-53
28 GENE MAY BE A TARGET OF CIGARETTE SMOKE AND MAY BE
4967
1 CONTRIBUTING TO THE DEVELOPMENT OF LUNG CANCER
2 BECAUSE CIGARETTE SMOKE IS TARGETING THE P-53 GENE,
3 AT LEAST IN 40 PERCENT OF THESE LUNG CANCER CASES.
4 Q. AND THIS WAS A 1997 STUDY?
5 A. YES, IT IS.
6 Q. SO MUCH OF THIS MOLECULAR CELL
7 RESEARCH IS FAIRLY RECENT?
8 A. YES, IT IS.
9 Q. YOU HAVE LOOKED THROUGH ALL OF
10 THESE C.T.R. MATERIALS THAT YOU HAVE TOLD US ABOUT.
11 YOU HAVE LOOKED THROUGH THE, SOME OF THE GRANT
12 APPLICATIONS. YOU HAVE LOOKED THROUGH THE
13 PUBLISHED RESEARCH.
14 DID YOU SEE ANY EVIDENCE THAT IN
15 ITS SELECTION OF RESEARCH TO BE CONDUCTED AND THE
16 GRANTS THAT IT APPROVED, THAT C.T.R. WAS BIASED IN
17 SOME WAY AGAINST RESEARCH THAT MIGHT BE UNFAVORABLE
18 TO THE TOBACCO INDUSTRY?
19 A. I SAW NO EVIDENCE OF THAT.
20 Q. YOU HAVE REVIEWED SURGEON GENERAL'S
21 REPORTS, HAVEN'T YOU?
22 A. YES, I HAVE.
23 Q. THE '64 SURGEON GENERAL'S REPORT?
24 A. YES.
25 Q. OTHER SURGEON GENERAL'S REPORTS
26 AFTER THAT, THE '82 AND THE '88. AND HAVE C.T.R.
27 GRANTEES RESEARCH BEEN CITED BY THE SURGEON GENERAL
28 IN THOSE REPORTS?
4968
1 A. YES, THEY HAVE.
2 IN FACT, IN THE '64 REPORT, C.T.R.
3 FUNDED RESEARCH IS CITED PROBABLY ABOUT 35 TIMES.
4 THEY CITE 35 C.T.R. FUNDED RESEARCH REPORTS IN THE
5 SURGEON GENERAL'S REPORT AND I WENT BACK TO LOOK AT
6 THAT, TO ASK WHAT ARE THEY CITING. AND IN FACT
7 THEY ARE CITING THIS TYPE OF DATA, NOT THIS IN '97,
8 BUT DATA WHICH IS, COULD BE VIEWED AS BEING
9 DETRIMENTAL TO THE TOBACCO COMPANIES.
10 C.T.R. WAS CARRYING OUT GOOD
11 RESEARCH AND WAS FUNDAMENTAL IN OUR UNDERSTANDING
12 OF THE LINES BETWEEN LUNG CANCER AND CIGARETTE

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13 SMOKING.
14 Q. BOTTOM LINE, WHAT'S YOUR OPINION
15 ABOUT THE C.T.R. RESEARCH PROGRAM AND THE RESEARCH
16 THAT IT FUNDED?
17 A. WELL, THE BOTTOM LINE IS THAT THE
18 RESEARCH PROGRAM REALLY WAS A BONA FIDE RESEARCH
19 PROGRAM. THE ADVISORY BOARD WAS ESTABLISHED THE
20 SAME WAY THAT THE ADVISORY BOARDS HAD BEEN
21 ESTABLISHED FOR N.I.H., FOR EXAMPLE.
22 THE MEMBERS OF THE ADVISORY BOARD
23 WERE REALLY VERY WELL QUALIFIED INDIVIDUALS. THEY
24 ARE EXPERTS IN THEIR FIELD.
25 I THINK THAT EXPERTISE HAD A LOT TO
26 DO WITH THEIR DEVELOPING THE RIGHT FOCAL POINTS FOR
27 THE RESEARCH PROGRAM.
28 INITIALLY, THE EPIDEMIOLOGY
4969
1 STUDIES, LATER THE MOUSE INHALATION STUDIES AND
2 THEN REALLY FOCUSING VERY HEAVILY ON THE CELL AND
3 MOLECULAR STUDIES.
4 WITH THAT KIND OF BACKGROUND THE
5 GRANTS THAT CAME IN WERE REVIEWED IN A VERY
6 PROFESSIONAL AND APPROPRIATE MANNER SIMILAR TO THE
7 MANNER THAT GRANTS ARE REVIEWED IN OTHER BIOMEDICAL
8 RESEARCH FUNDING ORGANIZATIONS.
9 THE TYPE OF RESEARCH THAT WAS
10 FUNDED, THE QUALITY OF THE RESEARCH WAS EXTREMELY
11 HIGH.
12 AND THAT'S ILLUSTRATED IN PART BY
13 WHERE THE GRANT, WHERE THE RESEARCH RESULTS WERE
14 PUBLISHED. THEY ARE PUBLISHED IN TOP TWO JOURNALS,
15 WHERE THE RESEARCH WAS CARRIED OUT. IT WAS CARRIED
16 OUT AT TOP UNIVERSITIES AND MEDICAL SCHOOLS. IT IS
17 IN REFLECTION OF THE FACT THAT THE C.T.R.
18 RECIPIENTS ALSO HAD FUNDING FROM THE AMERICAN
19 CANCER SOCIETY, FROM THE NATIONAL INSTITUTES OF
20 HEALTH.
21 TAKEN ALL TOGETHER, IT WAS A BONA
22 FIDE RESEARCH PROGRAM THAT HAD A VERY POSITIVE
23 IMPACT ON INVESTIGATORS AND ESPECIALLY YOUNG
24 INVESTIGATORS IN THE BIOMEDICAL FIELD OF RESEARCH.
25 MR. CARLTON: THANK YOU. I HAVE NOTHING
26 FURTHER.
27 THE COURT: THANK YOU, MR. CARLTON.
28 MR. PIUZE.
4970
1 CROSS-EXAMINATION
2
3 BY MR. PIUZE:
4 Q. THERE ARE SOME PEOPLE THAT DISAGREE
5 WITH YOU, THOUGH, AREN'T THERE?
6 MR. CARLTON: OBJECTION, VAGUE.
7 THE COURT: SUSTAINED.
8 Q BY MR. PIUZE: YOU ARE AWARE THAT
9 THERE ARE PLENTY OF PEOPLE WHO DISAGREE WITH YOU
10 ABOUT THE FACT THAT THE C.T.R. WAS A VALID
11 OPERATION; RIGHT?
12 A. I AM SORRY, WHAT WAS THE QUESTION?
13 Q. YOU ARE AWARE THAT THERE ARE PLENTY
14 OF PEOPLE WHO DISAGREE WITH YOU ON THE ISSUE OF
15 WHETHER OR NOT THE C.T.R. WAS A VALID OPERATION?
16 A. NO, I AM NOT.
17 Q. WHO'S MR. MICHAELS?

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A. MR. MICHAELS IS A LAWYER FOR THE
COUNCIL FOR TOBACCO RESEARCH.
Q. IS HE HERE?
A. YES, HE IS.
Q. WHERE IS HE?
A. HE'S IN THE BACK OF THE ROOM.
Q. WHICH ONE IS HE?
A. HE'S IN THE BACK OF THE ROOM, RIGHT
BEHIND YOU.
Q. I THOUGHT THE COUNCIL FOR TOBACCO
RESEARCH WAS ABOLISHED AT THE END OF 1997?

4971

A. I THINK IT WAS.
Q. BY THE STATES' ATTORNEYS GENERAL OF
THE UNITED STATES?
A. I DON'T KNOW.
Q. IF THE C.T.R. WAS ABOLISHED AT THE
END OF 1997, HOW IS HE THE LAWYER FOR THE C.T.R.,
DO YOU KNOW?
MR. CARLTON: OBJECTION, LACK OF
FOUNDATION, CALLS FOR SPECULATION.
THE COURT: DO YOU KNOW?
THE WITNESS: DO I KNOW --
THE COURT: RE-ASK THE QUESTION.
THE WITNESS: I AM SORRY.
Q BY MR. PIUZE: TELL YOU WHAT, I
WILL WITHDRAW THE QUESTION.
HOW DID YOU FIRST MEET MR.
MICHAELS?
A. I MET MR. MICHAELS IN LAS VEGAS
WHEN THEY FLEW OUT TO MEET ME.
Q. THEY?
A. THEY.
Q. WHO "THEY"?
A. MR. MICHAELS AND MR. GREEN.
Q. FROM NEW YORK?
A. FROM NEW YORK.
Q. FROM A WALL STREET LAW FIRM?
A. I DON'T KNOW IF THEY ARE A WALL
STREET LAW FIRM.

4972

Q. THE NAME?
A. PARDON?
Q. THE NAME?
A. OH, THE NAME, THE NAME OF THE LAW
FIRM IS DEBABOISE & PLIMPTON.
Q. HOW MANY TIMES HAVE THEY FLOWN OUT
TO LAS VEGAS TO MEET YOU?
A. MR. MICHAELS HAS FLOWN OUT SEVERAL
TIMES AND, I AM SORRY, I REALLY DON'T KNOW HOW MANY
TIMES.
Q. GIVE US A ROUND NUMBER.
A. IN WHAT TIMEFRAME?
Q. SINCE THEY CONTACTED YOU.
A. OH, MAYBE SIX TO TEN TIMES.
Q. AND WHAT HAVE YOU DONE IN LAS VEGAS
WHEN THEY HAVE FLOWN OUT TO MEET YOU?
A. WHEN MR. MICHAELS HAS FLOWN OUT TO
MEET ME, WE HAVE DISCUSSED C.T.R., WE HAVE
DISCUSSED THE ISSUES OF HEALTH AND LUNG CANCER. WE
HAVE TALKED ABOUT WHAT MY OPINIONS ARE OF C.T.R.
AND C.T.R. RELATED ACTIVITIES.
Q. IS THAT IT?

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23 A. AS BEST I CAN RECALL, YEAH.
24 Q. HE HAS PROVIDED YOU WITH A WHOLE
25 BUNCH OF DOCUMENTS, HASN'T HE?
26 A. HE HAS PROVIDED ME WITH A WHOLE
27 BUNCH OF DOCUMENTS THAT I REQUESTED.
28 Q. HE PROVIDED YOU WITH A WHOLE BUNCH
4973
1 OF DOCUMENTS FROM THE MINNESOTA LITIGATION, DIDN'T
2 HE?
3 A. MR. PIUZE, I AM A BIOLOGIST, AND I
4 HAVE NOT BOTHERED TO KEEP TRACK OF ALL THESE TRIAL
5 CASES. AND I DON'T KNOW THE DIFFERENCE BETWEEN
6 AFFIDAVIT AND A TESTIMONY. SO PLEASE HELP ME OUT
7 HERE.
8 Q. I WILL.
9 AT YOUR DEPOSITION, THERE WAS
10 SOMETHING MARKED AS EXHIBIT 1. AND EXHIBIT 1 WAS A
11 LIST OF ALL OF THE STUFF THAT HE HAD GIVEN YOU;
12 RIGHT?
13 A. YES.
14 Q. HERE IT IS, STARTING THERE, AND
15 GOING FOR 15 PAGES' WORTH OF STUFF; RIGHT?
16 A. CORRECT.
17 Q. NOW, TAKE A LOOK IF YOU WOULD, AT
18 PAGE 12. DO YOU SEE THAT?
19 A. ONE MOMENT, PLEASE.
20 Q. DO YOU SEE WHERE IT SAYS SELECTED
21 TRIAL EXHIBITS FROM STATE OF MINNESOTA VERSUS
22 PHILIP MORRIS?
23 A. NO, I AM ON PAGE 12 AND IT IS NOT
24 HERE.
25 Q. 13. DO YOU SEE ALL THAT?
26 A. YES. THE DIFFICULTY WE ARE HAVING
27 HERE IS THAT I DON'T RECOGNIZE THIS AS BEING STATE
28 OF MINNESOTA. I HAVE THIS MARKED AS "DOCUMENTS."
4974
1 I DON'T HAVE THESE THINGS MEMORIZED AS BEING FROM
2 PARTICULAR TRIALS, THE WAY THAT YOU LAWYER SORTS
3 DO.
4 Q. YOU DON'T HAVE TO.
5 A. OH, GOOD.
6 Q. BECAUSE THIS LAWYER SORT KNOWS WHAT
7 I GOT.
8 ANYWAY, FROM THESE DOCUMENTS THAT
9 YOU GOT LISTED THAT MR. MICHAELS GAVE YOU, ONE OF
10 THE VERY EARLIEST DOCUMENTS IS FROM 1958. THIS IS
11 BY A BRITISH GROUP VISITING THE UNITED STATES AND
12 CANADA IN ORDER TO GET ATTITUDES ON LUNG CANCER AND
13 SMOKING.
14 DO YOU KNOW THAT?
15 A. CAN I SEE THE FRONT COVER OF THIS
16 ORIGINAL SET OF DOCUMENTS. IT WOULD HELP ME A LOT.
17 Q. REPORT ON VISIT TO U.S.A. AND
18 CANADA, 17 APRIL THROUGH 12 MAY 1958.
19 DO YOU SEE THOSE AUTHORS THERE?
20 A. UH-HUH. AND WHAT COMPANY WERE THEY
21 FOR?
22 Q. THEY WERE FROM ENGLAND.
23 A. WHAT COMPANY?
24 Q. I DON'T KNOW.
25 A. WHAT?
26 Q. I DON'T KNOW.
27 THIS IS ONE OF THE DOCUMENTS HE

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28 GAVE YOU. IT'S LISTED THERE. DIDN'T YOU READ IT?
4975
1 A. I HAVE READ A LOT OF DOCUMENTS. SO
2 IF YOU -- IF WE WANT TO TALK ABOUT THIS, IF YOU
3 WILL HELP ME, I WOULD APPRECIATE IT.
4 Q. I DO.
5 LIGGETT AND MEYERS, DO YOU KNOW
6 WHAT THAT IS?
7 A. YES, I DO.
8 Q. WHAT?
9 A. IT'S ONE OF THE TOBACCO COMPANIES.
10 Q. (READING)
11 "LIGGETT AND MEYERS STAYED
12 OUT OF T.I.R.C. ORIGINALLY BECAUSE
13 THEY DOUBTED THE SINCERITY OF T.I.R.C.
14 ACTIVITIES AND BELIEVED THAT THE
15 ORGANIZATION WAS TOO UNWIELDY TO WORK
16 EFFICIENTLY.
17 "THEY REMAIN CONVINCED THAT
18 THEIR MISGIVINGS WERE JUSTIFIED. IN
19 THEIR OPINION, T.I.R.C. HAS DONE
20 LITTLE, IF ANYTHING, CONSTRUCTIVE.
21 THE CONSTANTLY REITERATED, NOT PROVEN
22 STATEMENTS IN THE FACE OF MOUNTING
23 CONTRARY EVIDENCE THAT HAS THOROUGHLY
24 DISCREDITED T.I.R.C. AND THE
25 SCIENTIFIC ADVISORY BOARD OF T.I.R.C.
26 AND SUPPORTING, ALMOST WITHOUT
27 EXCEPTION, PRODUCTS WHICH ARE NOT
28 RELATED DIRECTLY TO SMOKING AND LUNG
4976
1 CANCER."
2 SO ANYWAY, MY TAKE-OFF QUESTION
3 WAS, THERE WAS SOME PEOPLE THAT DISAGREED WITH YOU
4 ABOUT YOUR VIEW OF THE T.I.R.C. REMEMBER THAT?
5 A. UH-HUH.
6 Q. WEREN'T THERE?
7 A. YES.
8 Q. INCLUDING ONE OF THE UNITED STATES
9 TOBACCO COMPANIES?
10 A. WELL, THAT IS THE OPINION OF THE
11 THREE GENTLEMEN FROM ENGLAND.
12 Q. NO. ACTUALLY, DOESN'T SAY THAT IS
13 THE OPINION OF LIGGETT AND MEYERS THAT STAYED OUT
14 OF T.I.R.C. ORIGINALLY?
15 MR. CARLTON: OBJECTION, HEARSAY.
16 THE COURT: WELL, IT'S ONE PERSON
17 DESCRIBING ANOTHER PERSON'S OPINION.
18 MR. PIUZE: I WILL WITHDRAW THAT
19 QUESTION.
20 Q BY MR. PIUZE: DID LIGGETT AND
21 MEYERS STAY OUT OF T.I.R.C.?
22 A. ORIGINALLY, THEY DID.
23 Q. IN 1958 -- MR. CLERK WHAT'S MY
24 NEXT?
25 THE CLERK: 10,016.
26 MR. CARLTON: I WILL OBJECT TO THIS AS
27 HEARSAY, LACK OF FOUNDATION.
28 THE COURT: WELL, LET'S GO AHEAD AND
4977
1 START WITH IT.
2 IF IT'S HEARSAY BUT, LIKE THE OTHER
3 DOCUMENTS, IT'S SOMETHING THAT SHE REVIEWED, THEN

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4 IT COULD BE ADMISSIBLE FOR THE PURPOSES OF
5 EXAMINING HER. I DON'T KNOW ANYTHING ABOUT THIS
6 PARTICULAR DOCUMENT. FOUNDATION, PLEASE.
7 Q BY MR. PIUZE: THIS IS ONE OF THE
8 DOCUMENTS, LISTED RIGHT THERE THAT YOU REVIEWED;
9 RIGHT?
10 A. WAS THAT A QUESTION?
11 Q. YES.
12 A. YES.
13 THE COURT: PROCEED.
14 Q BY MR. PIUZE: SO 10,016, I AM
15 GOING TO MAKE THE SMALL VERSION 10016, AND THIS
16 BLOWUP 10,016 A.
17
18 * (EXHIBITS 10,016 AND 10,016A,
19 DEMONSTRATIVES, MARKED FOR I.D.)
20
21 Q BY MR. PIUZE: THESE PEOPLE WHO
22 VISITED THE UNITED STATES AND CANADA IN 1958,
23 REPORTED THAT WITH ONE EXCEPTION, EVERY SINGLE
24 PERSON THEY KNOW BELIEVED THAT SMOKING CAUSED LUNG
25 CANCER?
26 MR. CARLTON: OBJECTION, LACK OF
27 RELEVANCE, BEYOND THE SCOPE.
28 THE COURT: THIS IS SOMETHING SHE
4978
1 REVIEWED. SHE CAN BE EXAMINED ON IT.
2 Q BY MR. PIUZE: RIGHT?
3 A. RIGHT WHAT?
4 Q. THESE THREE PEOPLE WHO VISITED THE
5 UNITED STATES --
6 A. COULD I ALSO SEE THE BOARD.
7 Q. THIS IS THE SAME THING.
8 I AM NOT TRYING TO USE MIRRORS.
9 THIS IS THE SAME THING. THE JURY IS WATCHING.
10 A. OKAY, GOOD.
11 YOU REALIZE THAT IT'S -- THAT'S
12 HARD TO READ AND THIS IS MUCH NICER TO READ.
13 Q. HERE, YOU CAN HAVE THIS ONE.
14 A. MAY I TAKE IT HOME?
15 Q. YES.
16 A. THANK YOU.
17 Q. (READING)
18 "WITH ONE EXCEPTION, THE
19 INDIVIDUALS WHOM WE MET BELIEVED THAT
20 SMOKING CAUSES LUNG CANCER. THERE IS
21 NO SUPPORT FOR THE VIEW THAT IN THE
22 SAME INDIVIDUAL, THE TENDENCY TO SMOKE
23 AND TO BE SUSCEPTIBLE TO LUNG CANCER
24 ARE EACH INDEPENDENTLY AN OUTWARD
25 EXPRESSION OF SOME THIRD UNKNOWN
26 FACTOR."
27 SO WASN'T C.T.R., YEARS, MAYBE
28 DECADES AFTER THIS WAS WRITTEN, PROPOSING SOME OF
4979
1 THESE VERY THEORIES?
2 A. I AM SORRY. I PHASED OUT, WHICH
3 THEORIES ARE WE TALKING ABOUT HERE?
4 Q. THAT SMOKING DOESN'T CAUSE LUNG
5 CANCER. LET'S START WITH THAT.
6 A. I THINK YOU WILL FIND THAT IF --
7 EXCUSE ME, I THINK YOU WILL FIND THAT IF YOU LOOK
8 AT THE RECORD OF C.T.R., IN FACT, PROBABLY ABOUT

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9 THE '80'S ON, IT WAS THE PRESUMPTION THAT SMOKING
10 DOES CAUSE LUNG CANCER AND THEY WERE DETERMINING
11 HOW IT IS INVOLVED WITH CAUSING LUNG CANCER.
12 Q. FROM THE '80'S ON?
13 A. ABOUT IN THAT TIMEFRAME.
14 Q. OKAY, SO FAR WE ARE IN 1958.
15 A. THAT IS RIGHT.
16 Q. AND IT'S IMPORTANT FOR US HERE, AT
17 LEAST FOR ME, REPRESENTING MR. BOEKEN, TO TALK
18 ABOUT THE '50'S AND THE '60'S AND THE '70'S BEFORE
19 WE EVEN GET TO THE '80'S; OKAY?
20 A. OKAY.
21 THE COURT: YOU DON'T NEED TO ANSWER. HE
22 JUST MADE A STATEMENT.
23 Q BY MR. PIUZE: HERE'S ANOTHER ONE
24 THAT'S ON YOUR LIST. THIS IS 1963.
25 A. WOULD YOU LIKE YOUR BOARD BACK?
26 Q. I THOUGHT YOU WANTED TO TAKE THAT
27 TO LAS VEGAS.
28 A. SURE. DO YOU THINK THEY WILL LET
4980
1 ME TAKE IT ON THE PLANE?
2 Q. THIS NEXT ONE THAT I AM SHOWING NOW
3 WILL BE 1019.
4
5 * (EXHIBIT 10,019,
6 DEMONSTRATIVE, MARKED FOR I.D.)
7
8 Q BY MR. PIUZE: FROM DURHAM, NORTH
9 CAROLINA, THIS IS A PRESS RELEASE FROM THE TOBACCO
10 INDUSTRY.
11 DO YOU KNOW WHO GEORGE ALLEN WAS?
12 A. WELL, IT SAYS ON THERE HE'S THE
13 PRESIDENT OF THE TOBACCO INSTITUTE.
14 Q. DO YOU KNOW WHAT THE TOBACCO
15 INSTITUTE IS?
16 A. YES.
17 Q. TELL THE JURY WHAT THE TOBACCO
18 INSTITUTE IS.
19 A. I BELIEVE THAT THE TOBACCO
20 INSTITUTE WAS THE ORGANIZATION THAT WAS DEALING
21 WITH BEING A SPOKESMAN FOR THE TOBACCO INDUSTRY.
22 Q. THIS GUY GAVE A TALK IN DURHAM,
23 NORTH CAROLINA. DO YOU SEE THAT?
24 A. YES.
25 Q. IS DURHAM, NORTH CAROLINA IN THE
26 HEART OF WHERE TOBACCO IS PRODUCED, DO YOU KNOW?
27 A. I BELIEVE SO.
28 Q. I AM JUST GOING TO READ THIS OUT
4981
1 LOUD.
2 "MR. ALLEN NOTED THE TOBACCO
3 PEOPLE HAVE A DOUBLE INTEREST IN THIS
4 MATTER. FIRST, AS HUMAN BEINGS, WE
5 ARE INTERESTED IN THE HEALTH OF OUR
6 FELLOW MAN. SECOND, WE HAVE A
7 NATIONAL INTEREST IN THE FUTURE
8 WELFARE OF OUR INDUSTRY AND OF THE
9 INDUSTRY'S CUSTOMERS."
10 MR. CARLTON: OBJECT TO RELEVANCE AND
11 HEARSAY.
12 THE COURT: OVERRULED.
13 MR. PIUZE: (READING)

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14 "WE DO KNOW THAT THE
15 ORIGINAL THEORY ABOUT SMOKING AND LUNG
16 CANCER, THE THEORY THAT SMOKE WAS A
17 DIRECT CONTACT CARCINOGEN HAS
18 VIRTUALLY BEEN ABANDONED. OTHER
19 THEORIES ABOUT HOW SMOKING MIGHT BE
20 INVOLVED ARE STILL THEORIES TO BE
21 INVESTIGATED.
22 "WE DO KNOW THAT IN
23 LABORATORIES AROUND THE WORLD,
24 SCIENTISTS ARE INVESTIGATING MANY
25 POSSIBLE FACTORS IN LUNG CANCER AND
26 HEART DISEASE IN ADDITION TO SMOKING.
27 THESE INCLUDE VIRUSES, PREVIOUS LUNG
28 INFECTIONS, DIET, STRESS AND STRAIN,
4982
1 ENVIRONMENTAL AND OCCUPATIONAL
2 POLLUTANTS, AMONG MANY OTHERS.
3 "WE ALSO KNOW AND PEOPLE
4 SOMETIMES FORGET, THAT THERE ARE SOME
5 GOOD REASONS WHY THE THEORIES ABOUT
6 SMOKING AND HEALTH PROBLEMS ARE OFTEN
7 QUESTIONED BY RESPONSIBLE SCIENTISTS.
8 AMONG THEM: THE CASE AGAINST SMOKING
9 STILL RESTS LARGELY ON STATISTICAL
10 STUDIES WHOSE MEANINGS ARE QUESTIONED
11 BY LEADING MEDICAL STATISTICIANS.
12 "INTENSIVE AND CLINICAL
13 LABORATORY RESEARCH HAS FAILED TO
14 PROVIDE THE VERIFICATION NECESSARY TO
15 SHOW CAUSE AND EFFECT ROLE OF SMOKING,
16 INHALATION OF TOBACCO SMOKE BY
17 LABORATORY ANIMALS IN MANY EXPERIMENTS
18 OVER THE YEAR, HAS CONSISTENTLY FAILED
19 TO PRODUCE LUNG CANCER."
20 IS THAT ACCURATE, BASED ON YOUR
21 RESEARCH?
22 MR. CARLTON: OBJECTION, VAGUE, COMPOUND.
23 THE COURT: OVERRULED.
24 THE WITNESS: IS WHAT ACCURATE?
25 Q BY MR. PIUZE: THAT STATEMENT THAT
26 I JUST READ THAT WAS HIGHLIGHT IN YELLOW?
27 A. YOU HAVE GOT SEVERAL DIFFERENT
28 COMPONENTS IN THERE. IF YOU WANT TO GO THROUGH
4983
1 THEM ONE BY ONE, I WOULD BE HAPPY TO DO THAT.
2 Q. I WILL WITHDRAW.
3 "HE NOTED THAT THE TOBACCO
4 INDUSTRY HAS LONG BEEN A PRODUCTIVE
5 CONTRIBUTOR TO THE AMERICAN ECONOMY,
6 AND THAT IT EXISTS TO MEET A
7 WELL-ESTABLISHED CONSUMER DEMAND FOR
8 PRODUCTS THAT BRING PLEASURE AND
9 RELAXATION TO A LARGE NUMBER OF PEOPLE
10 IN THIS COUNTRY AND ABROAD."
11 DO YOU HAPPEN TO KNOW WHEN THE
12 TOBACCO -- CIGARETTE TOBACCO INDUSTRY STARTED TO
13 EXIST?
14 A. NO.
15 MR. CARLTON: OBJECTION, BEYOND THE
16 SCOPE.
17 THE COURT: OVERRULED.
18 Q BY MR. PIUZE: YOU DON'T?

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19 A. NO, I DON'T.
20 Q. HERS'S ANOTHER ONE FROM YOUR LIST,
21 10,220.
22
23 * (EXHIBIT 10,220,
24 DEMONSTRATIVE, MARKED FOR I.D.)
25
26 Q BY MR. PIUZE: THIS IS FROM 1967
27 TO SENATOR CLEMENTS. DO YOU KNOW WHO SENATOR
28 CLEMENTS IS?
4984
1 A. CAN YOU TELL ME WHERE THAT IS ON MY
2 RELIANCE LIST?
3 Q. I CAN, 11,891, FROM MINNESOTA.
4 HERE, 11,891.
5 DO YOU KNOW WHO SENATOR CLEMENTS
6 IS?
7 A. NO, I DON'T. HE IS A SENATOR.
8 Q. DO YOU KNOW WHO BATES IS?
9 A. NO, I DON'T.
10 Q. DO YOU KNOW IF EITHER ONE OF THEM
11 WAS ASSOCIATED WITH THE T.I.R.C.?
12 A. I DON'T KNOW.
13 Q. DO YOU KNOW IF EITHER ONE OF THEM
14 WAS ASSOCIATED WITH THE C.T.R.?
15 A. I DON'T KNOW.
16 Q. TELL THE JURY WHICH CAME FIRST,
17 T.I.R.C. OR C.T.R.
18 A. T.I.R.C.
19 Q. WHEN DID IT START?
20 A. IT WAS ESTABLISHED IN 1954.
21 Q. BY WHOM?
22 A. BY WHOM?
23 Q. BY WHOM?
24 A. OKAY, C.T.R. --
25 Q. NO, T.I.R.C., ESTABLISHED IN '54?
26 A. T.I.R.C., I HAVE BEEN USING C.T.R.
27 AS A GENERIC FOR BOTH, FOR BOTH TITLES, EXCUSE ME.
28 T.I.R.C., WAS ESTABLISHED IN 1954.
4985
1 IT WAS THE RESULT OF AN AGREEMENT AMONG THE TOBACCO
2 COMPANIES TO PROVIDE MONEY FOR BASIC RESEARCH INTO
3 THE QUESTIONS OF HEALTH AND SMOKING.
4 THIS WAS -- THE DEVELOPMENT OF
5 T.I.R.C., THE IDEA OF HAVING THE TOBACCO COMPANIES
6 CONTRIBUTE MONEY TO DOING THIS TYPE OF RESEARCH WAS
7 NOT A NEW IDEA.
8 AND IN FACT, THE "NEW ENGLAND
9 JOURNAL OF MEDICINE" IN 1953, I BELIEVE, HAD ALSO
10 PUT A CALL OUT SUGGESTING THAT, IN FACT, THIS IS
11 EXACTLY WHAT THE TOBACCO COMPANIES SHOULD BE DOING.
12 Q. DO YOU HAPPEN TO KNOW IF, AT ITS
13 FOUNDING, THE TOBACCO INDUSTRY RESEARCH COUNCIL WAS
14 HOUSED IN THE OFFICES OF THE HILL & KNOWLTON PUBLIC
15 RELATIONS FIRM IN NEW YORK CITY?
16 A. YES, THEY WERE, WHEN THEY WERE
17 GETTING STARTED.
18 Q. SO HERE'S DOCUMENT 11,891.
19 "IN MY OPINION THE TOBACCO
20 INDUSTRY HAS A VERY SERIOUS PROBLEM IN
21 THE CURRENT TOBACCO HEALTH CONTROVERSY
22 AND IT IS RAPIDLY BECOMING WORSE.
23 PRIOR TO 1954, THE PROBLEM WAS MAINLY

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A PUBLIC RELATIONS PROBLEM AND OUR OPPONENTS HAD NO EFFECTIVE BASE TO WORK FROM. IN DECEMBER OF 1953 WITH THE PUBLISHING OF THE WYNDER, GRAHAM AND CRONINGER PAPER, THIS PROBLEM NOT

4986

ONLY INTENSIFIED, IT BECAME A SCIENTIFIC ONE. IN THE LAST 14 YEARS, THIS PROBLEM HAS BECOME MORE COMPLEX, MORE INVOLVED AND MUCH MORE SERIOUS. ALTHOUGH THIS PROBLEM HAS PUBLIC RELATIONS, BUSINESS, LEGAL AND POLITICAL COMPONENTS, IT IS BASICALLY A SCIENTIFIC ONE. SO FAR, HOWEVER, THE MAJOR EFFORTS OF INDUSTRY TO COPE WITH THIS PROBLEM HAVE BEEN OTHER THAN SCIENTIFIC."

NOW, IN 1967, 14 YEARS AFTER THE T.I.R.C. WAS ESTABLISHED, THE MAJOR EFFORTS OF INDUSTRY TO COPE WITH THIS PROBLEM HAVE BEEN OTHER THAN SCIENTIFIC. AGREE OR DISAGREE?

A. AGREE OR DISAGREE TO WHAT? I DON'T KNOW WHAT HE IS REFERRING TO AT THE INDUSTRY.

Q. YOU DON'T KNOW WHAT INDUSTRY THIS PERSON IS REFERRING TO?

A. IF HE'S REFERRING TO THE TOBACCO INDUSTRY, YEAH.

Q. OF COURSE.

A. OKAY.

I DON'T KNOW WHAT THIS PROBLEM IS HE IS REFERRING TO.

THIS IS A MEMO WHICH IS, I BELIEVE, IF WE COULD LOOK AT THE TOP, I BELIEVE IF WE COULD LOOK AT THE TOP, WAS OUT OF HILL & KNOWLTON. I

4987

MEAN, I DON'T KNOW WHO THESE TWO INDIVIDUALS ARE. THEY ARE HAVING SOME SORT OF DISCUSSION HERE. I AM NOT CLEAR HOW THIS CONNECTS ANYTHING TO C.T.R., AND REALLY MY STUDIES HAVE BEEN IN DEALING WITH THE EFFORTS OF C.T.R. OR T.I.R.C.

Q. HERE'S THE SECOND PAGE.

"THE C.T.R. AND A.M.A. PROGRAMS SUFFER FROM ALMOST THE SAME FAULT. MOST OF THEIR PROJECTS HAVE ONLY A PERIPHERAL CONNECTION TO TOBACCO USE.

"THE PUBLIC HEALTH SERVICE HAS CONCLUDED THAT THE EPIDEMIOLOGY WHICH HAS BEEN DONE IS SUFFICIENT AND ONLY SEEMS INTERESTED IN FINDING ADDITIONAL FODDER FOR THEIR PROPAGANDA MILLS RATHER THAN DOING ADEQUATE RESEARCH TO PROPERLY DEFINE THE NET RISK DUE TO SMOKING, IF ANY."

DO YOU KNOW IF PEOPLE WITHIN THE T.I.R.C., THOUGHT THAT THE PUBLIC HEALTH SERVICE OF THE UNITED STATES WAS ENGAGING IN A PROPAGANDA MILL?

A. I WOULDN'T KNOW BECAUSE I WASN'T THERE.

Q. HERE'S PAGE 3:

"IN MY OPINION, THE C.T.R. IS NEITHER ORGANIZED NOR STAFFED TO

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4988
PROPERLY DO THE JOB TO BE DONE. I BELIEVE THE JOB CAN BE DONE BY BRINGING TO BEAR THE SCIENTIFIC RESOURCES OF THE TOBACCO INDUSTRY ON THE PROBLEM. IN MY OPINION, A SCIENTIFIC TASK FORCE SHOULD BE ESTABLISHED IN THE TOBACCO INSTITUTE. THIS TASK FORCE SHOULD BE COMPOSED OF THE RESEARCH DIRECTORS OF THE MEMBERS OF THE INSTITUTE WITH ONE OF THE GROUP APPOINTED CHAIRMAN."
WAS SUCH A TASK FORCE EVER BUILT UP?
A. I DON'T KNOW.
Q. HERE'S PAGE 4.
"THE PRIMARY PURPOSE OF THE TASK FORCE SHOULD BE TO INFLUENCE RESEARCH EFFORTS IN SUCH A WAY THAT THE NATURE AND MAGNITUDE OF THE TOBACCO AND HEALTH PROBLEM (IF THERE IS ONE), CAN BE PROPERLY DEFINED. NO PROBLEM CAN BE SOLVED UNTIL IT IS DEFINED. IF THERE IS NO PROBLEM, FANTASY AND FANATICISM WILL SLOWLY --"
I CAN'T READ THE NEXT WORD -- SOMETHING.
A. THE LAST LINE IS "IT WILL BE REPLACED BY SOLID FACT."
4989
Q. "AND WILL BE REPLACED BY SOLID FACTS."
NOW, IN 1967, BASED ON YOUR READING OF THE MATERIALS, WAS THERE A TOBACCO HEALTH PROBLEM?
MR. CARLTON: OBJECTION, VAGUE, AMBIGUOUS.
THE COURT: OVERRULED.
THE WITNESS: CAN YOU BE MORE SPECIFIC?
MR. PIUZE: SURE.
Q BY MR. PIUZE: THERE'S A REFERENCE HERE TO THE FACT THAT MAY BE THE TOBACCO AND HEALTH PROBLEM DOESN'T EVEN EXIST. I AM SIMPLY ASKING YOU, AFTER MR. MICHAELS CAME OUT TO SEE YOU, HOWEVER MANY TIMES, AND GAVE YOU ALL THE DOCUMENTS AND TALKED TO YOU, ARE YOU OF AN UNDERSTANDING THAT AS OF 1967, IT WAS PRETTY DARN WELL UNDERSTOOD THAT THERE WAS A TOBACCO AND HEALTH PROBLEM?
MR. CARLTON: OBJECTION, VAGUE, AMBIGUOUS, ARGUMENTATIVE.
THE COURT: OVERRULED.
MR. PIUZE: I WILL WITHDRAW THE QUESTION.
THE COURT: ALL RIGHT, AT THAT, IT'S NOW 3 O'CLOCK, LADIES AND GENTLEMEN, BE BACK AT 3:15. DON'T DISCUSS THE CASE WITH ANYONE.

(AT THIS TIME, A RECESS WAS TAKEN.)
4990
(THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT IN THE PRESENCE OF THE JURY.)

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5 THE COURT: MA'AM, YOU UNDERSTAND YOU ARE
6 STILL UNDER OATH.
7 THE WITNESS: YES.
8 THE COURT: MR. PIUZE.
9
10 CROSS-EXAMINATION (RESUMED)
11
12 BY MR. PIUZE:
13 Q. (READING)
14 "A FRINGE BENEFIT," PAGE 5,
15 "MEMO, ALTHOUGH A VERY USEFUL ONE,
16 WILL BE AN EXTREMELY WELL INFORMED,
17 COMPLETELY UP-TO-DATE BODY OF THE
18 KNOWLEDGE WHICH IS READILY AVAILABLE
19 FOR SCIENTISTS WHO ARE SYMPATHETIC
20 WITH AND UNDERSTAND THE INDUSTRY. FOR
21 THESE ADDITIONAL REASONS, THE TASK
22 FORCE WOULD BE A REAL HELP IN P.R.,
23 POLITICAL AND LEGAL MATTERS."
24 DID YOU TAKE THIS INTO ACCOUNT WHEN
25 YOU WERE REVIEWING ALL THE DOCUMENTS IN ORDER TO
26 GIVE YOUR OPINIONS HERE?
27 A. YES, I DID.
28 Q. HERE'S 10,021.
4991
1 * (EXHIBIT 10,021,
2 DEMONSTRATIVE, MARKED FOR I.D.)
3
4 MR. PIUZE: THERE IS SENATOR CLEMENTS,
5 WHO, BY 1967, WAS THE PRESIDENT OF THE TOBACCO
6 INSTITUTE.
7 "THE INDUSTRY'S POSITION IS
8 CLEAR, WE DO NOT PRETEND TO KNOW THE
9 CAUSE OF SUCH DISEASES AS LUNG CANCER
10 AND HEART DISEASE. NOR DO WE BELIEVE
11 THE CRITICS OF SMOKING KNOW THE
12 CAUSES."
13 YOU READ THAT, DIDN'T YOU?
14 A. TO BE HONEST WITH YOU, I DON'T
15 RECALL READING THAT PARTICULAR DOCUMENT. I HAVE
16 READ A LOT OF DOCUMENTS, BUT I AM HAPPY TO TRY TO
17 DISCUSS THIS WITH YOU.
18 Q. I WANT TO CHALLENGE HIM, GET YOUR
19 OPINION ON MY CHALLENGE.
20 READY?
21 IN 1967, ONLY SOMEONE WHO WAS
22 DEVELOPMENTALLY DISABLED WOULD NOT HAVE UNDERSTOOD
23 THAT TOBACCO CAUSED LUNG CANCER?
24 MR. CARLTON: OBJECTION, RELEVANCE,
25 BEYOND THE SCOPE.
26 THE COURT: OVERRULED.
27 PUT IT IN THE FORM OF A QUESTION.
28 Q BY MR. PIUZE: WOULDN'T YOU AGREE
4992
1 THAT AS OF 1967, NOT ONLY WAS THE CAUSE OF LUNG
2 CANCER AND HEART DISEASE UNKNOWN, BUT THAT THE
3 TOBACCO INDUSTRY RESEARCH COUNCIL WAS OUT THERE
4 TRYING TO FIND ANSWERS?
5 A. I UNDERSTAND YOUR QUESTION TO BE AS
6 OF 1967 -- I AM SORRY, I HAVEN'T DONE THIS BEFORE.
7 IF YOU COULD BREAK IT INTO TWO QUESTIONS, I WOULD
8 BE HAPPY TO ANSWER IT FOR YOU.
9 SO THE FIRST PART OF YOUR QUESTION

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10 WAS, WAS WHAT?
11 Q. THE FIRST PART IS GONE. I ASKED A
12 DIFFERENT QUESTION.
13 A. OKAY.
14 Q. AS OF 1967, THE TOBACCO INDUSTRY
15 DID NOT KNOW THE CAUSE OF DISEASES SUCH AS LUNG
16 CANCER AND HEART DISEASE AND SO THE TOBACCO
17 INDUSTRY RESEARCH COUNCIL WAS OUT THERE DOING
18 RESEARCH TO FIGURE IT OUT; RIGHT?
19 A. YES, THAT IS CORRECT.
20 Q. SO THAT WAS THE FIRST QUESTION.
21 A. OKAY.
22 Q. NEXT QUESTION.
23 WOULD YOU AGREE THEN WITH THE
24 FOLLOWING: IN 1967, ONLY SOMEONE WHO WAS
25 DEVELOPMENTALLY DISABLED WOULD NOT HAVE KNOWN THAT,
26 OF COURSE, TOBACCO CAUSED LUNG CANCER?
27 A. OKAY, YOU KNOW, IT DEPENDS ON WHAT,
28 HOW WE VIEW THE TERM "CAUSE."
4993
1 IF WE ARE VIEWING THE TERM "CAUSE"
2 AS A PUBLIC HEALTH MESSAGE, THEN, YES, SMOKING
3 CAUSES LUNG CANCER.
4 BUT AS I HAVE TRIED TO EXPLAIN IN
5 THE, UNDERSTANDING THE PROCESS OF CANCER, IF WE ARE
6 GOING TO USE CAUSATION IN THE SCIENTIFIC TERM, DOES
7 SMOKING CAUSE LUNG CANCER, AS YOU CAN SEE, THERE
8 ARE A LOT OF VARIOUS STEPS IN HERE THAT WE NEED TO
9 UNDERSTAND TO FIGURE OUT THE MECHANISM BY WHICH
10 SMOKING IS INVOLVED IN LUNG CANCER.
11 IT'S NOT TO SAY THAT SMOKING IS NOT
12 DANGEROUS TO YOUR HEALTH. I THINK EVERYONE AGREES
13 WITH THAT, I, MYSELF.
14 BUT THE FACT IS THAT WHEN WE TURN
15 TO THE, TURN TOWARDS CAUSATION, WE HAVE THE
16 SCIENTIFIC VIEW OF CAUSATION AND WE ALSO HAVE TO
17 DEAL WITH THE PUBLIC HEALTH VIEW OF CAUSATION.
18 Q. SO I GUESS THAT MEANS THAT LAY
19 PEOPLE, MAYBE WITH A HIGH SCHOOL EDUCATION AND NO
20 SCIENTIFIC BACKGROUND, SHOULD KNOW THAT TOBACCO
21 CAUSES LUNG CANCER, BUT SCIENTISTS, EMPLOYED BY THE
22 TOBACCO INDUSTRY RESEARCH COUNCIL, SHOULDN'T KNOW?
23 MR. CARLTON: OBJECTION, ARGUMENTATIVE.
24 Q BY MR. PIUZE: IS THAT CORRECT?
25 MR. CARLTON: MISSTATES THE TESTIMONY.
26 THE COURT: OVERRULED.
27 THAT MEANS YOU HAVE TO ANSWER THE
28 QUESTION.
4994
1 THE WITNESS: I AM SORRY, I DIDN'T HEAR
2 YOU.
3 NO. I MEAN, THE FACT IS THAT
4 SCIENTISTS IN 1967, IF YOU LOOKED AT THE BIOMEDICAL
5 SCIENTIST, NOT JUST SCIENTISTS WORKING WITH C.T.R.,
6 WHAT YOU WOULD FIND IS THAT THOSE SCIENTISTS WOULD
7 TELL YOU THAT THERE IS A STRONG ASSOCIATION. THE
8 PROBLEM WE HAVE IS THAT WHY IS IT. AND THIS IS
9 WHAT HAS BOTHERED SCIENTISTS, WHY IS IT THAT OF THE
10 PEOPLE WHO SMOKE, 20 PERCENT DEVELOP LUNG CANCER
11 AND 80 PERCENT DON'T.
12 IF WE USE THE TERM "CAUSATION" AS
13 "A" CAUSES "B," THEN IF YOU SMOKE, YOU SHOULD
14 DEVELOP LUNG CANCER.

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15 AND 80 PERCENT OF THE PEOPLE DON'T.
16 AND THIS IS ONE OF THE THINGS THAT HAS REALLY
17 BOTHERED SCIENTISTS IN VIEW OF, IN LOOKING AT THIS
18 PROBLEM.
19 Q. HERE WAS MY QUESTION.
20 A. SORRY.
21 Q. DOES YOUR NEXT TO LAST EXPLANATION
22 MEAN THAT AS OF 1967, A PERSON OFF THE STREET,
23 LET'S SAY, WITH A HIGH SCHOOL DEGREE, SHOULD HAVE
24 REALIZED, THAT SMOKING CAUSED LUNG CANCER, BUT THAT
25 SCIENTISTS EMPLOYED BY THE C.T.I.R.C., BECAUSE THEY
26 WERE ENCUMBERED WITH SO MUCH KNOWLEDGE, SHOULD NOT
27 HAVE KNOWN?
28 A. IN ANSWER TO THE FIRST PART OF YOUR
4995
1 QUESTION, ABOUT THE INDIVIDUALS ON THE STREET, I AM
2 NOT AN EPIDEMIOLOGIST, I DON'T KNOW WHAT THE PUBLIC
3 OPINION IS. I DON'T KNOW WHAT THIS POPULATION
4 WOULD KNOW. I KNOW WHAT MY OWN DEALINGS WITH, IN
5 1967. SO IT'S DIFFICULT FOR ME TO BE ABLE TO
6 ANSWER YOUR QUESTION.
7 Q. OKAY. CAN'T ANSWER THAT THEN I
8 WILL GO ON TO THE NEXT.
9 "MEANWHILE, THROUGHOUT THE
10 WORLD, SCIENTISTS ARE INVESTIGATING
11 MANY POSSIBLE FACTORS IN THESE
12 DISEASES IN ADDITION TO SMOKING.
13 "SOME OF THESE INCLUDE
14 VIRUSES, HORMONE DIFFERENCES, PREVIOUS
15 LUNG INFECTIONS, OCCUPATIONAL AND AIR
16 POLLUTANTS, POOR DIET, LACK OF
17 EXERCISE, AND THE PHYSICAL AND
18 PSYCHOLOGICAL DIFFERENCES AMONG
19 PEOPLE.
20 "PROFESSOR BROWNLEE," AND HE
21 IS A STATISTICIAN WITH THE UNIVERSITY
22 OF CHICAGO, "ANALYZED AND REVIEWED THE
23 RESULTS OF MAJOR STATISTICS
24 ASSOCIATION STUDIES ON WHICH THE
25 CHARGES AGAINST SMOKING WERE LARGELY
26 BASED.
27 "HIS CONCLUSION, THIS DATA,
28 'DOES NOT ESTABLISH THE CASE FOR
4996
1 CAUSALITY IN LUNG CANCER.
2 "WHILE THE STATISTICAL
3 STUDIES APPEAR TO SUPPORT THE SMOKING
4 THEORY, HE SAID, IT ALSO SUPPORTS
5 OTHER THEORIES. ONE OF THESE IS THE
6 THEORY THAT THE KINDS OF PEOPLE WHO
7 SMOKE MAYBE MORE PRONE TO CERTAIN
8 DISEASES THAN THE KINDS OF PEOPLE WHO
9 DO NOT SMOKE. THERE IS GROWING
10 EVIDENCE TO SUPPORT THIS THEORY AND,
11 SAYS PROFESSOR BROWNLEE, IT MUST BE
12 PROVED FALSE BEFORE THE CIGARETTE
13 THEORY CAN BE JUSTIFIED."
14 NOW, UNTIL PROVEN GUILTY, THE
15 CIGARETTE IS INNOCENT; RIGHT?
16 MR. CARLTON: OBJECTION, ARGUMENTATIVE.
17 THE COURT: SUSTAINED.
18 MR. PIUZE: WITHDRAWN.
19 Q BY MR. PIUZE: DID THE TOBACCO

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20 INDUSTRY RESEARCH COUNCIL SPONSOR RESEARCH WITH
21 MONEY ALONG THESE LINES, RIGHT HERE (INDICATING):
22 "IT MUST BE PROVED FALSE
23 BEFORE THE CIGARETTE THEORY CAN BE
24 JUSTIFIED."
25 A. THE TOBACCO COMPANIES ARE NOT
26 C.T.R.
27 C.T.R. WAS FUNDING RESEARCH INTO
28 UNDERSTANDING THE PROBLEM BETWEEN CIGARETTE SMOKING
4997
1 AND HEALTH, AND IN TERMS OF WHAT I HAVE DESCRIBED
2 HERE IN TERMS OF LUNG CANCER. SO --
3 Q. ISN'T THIS SOMETIMES CALLED THE
4 GENETIC THEORY?
5 A. I AM SORRY, IT'S REALLY -- CAN I
6 LOOK AT THE ORIGINAL. IT'S REALLY HARD FOR ME TO
7 SEE WHAT YOU HAVE UP TO THE SCREEN, IF THAT'S OKAY.
8 Q. YES.
9 I WILL TELL YOU WHAT, BEFORE I GIVE
10 THIS AWAY -- LET ME FINISH ASKING YOU ABOUT THE
11 OTHERS AND THEN I WILL GIVE IT TO YOU, OKAY.
12 IS THAT OKAY?
13 A. OKAY. IT'S REALLY TOUGH -- IT'S
14 TOUGH SEEING IT FROM HERE. BUT OKAY.
15 MR. PIUZE: YOUR HONOR, I DON'T WANT TO
16 BE OUT OF PLACE HERE. CAN I INVITE THE WITNESS TO
17 GET CLOSER, IF SHE WANTS.
18 THE COURT: SURE. OR YOU CAN -- YOU
19 CAN'T BLOW IT UP ANY MORE, CAN YOU, BECAUSE YOU
20 HAVE REACHED THE LIMIT OF THE ELMO.
21 MR. PIUZE: IT WILL GO OFF THE SCREEN.
22 THE COURT: WOULD YOU LIKE TO GET CLOSER
23 THERE.
24 THE WITNESS: I WILL DO THE BEST I CAN
25 FROM HERE.
26 THE COURT: IF YOU NEED TO MOVE CLOSER,
27 YOU CAN.
28 Q BY MR. PIUZE: (READING)
4998
1 "ANOTHER PHYSICIAN, DR.
2 HYRAM LANGSTON, CHIEF OF SURGERY AT
3 THE CHICAGO STATE TUBERCULOSIS
4 SANITARIUM, COMMENTED IN A MEDICAL
5 JOURNAL EDITORIAL ON THE CAMPAIGN
6 AGAINST SMOKING. HE SAID, 'TO BOW TO
7 THE PRESSURE OF HIGHLY ORGANIZED
8 EMOTIONALISM, OR WORSE YET, TO THE
9 PANIC ENGENDERED BY CANCER PHOBIA AND
10 AGREE TO CLOSE THE CHAPTER ON THE
11 ETIOLOGY OF CANCER OF THE LUNG BY
12 BLAMING CIGARETTES, IS TO DO SO BY
13 EDICT, AND NOT BY SEARCH.'"
14 WHAT DOES THAT MEAN?
15 MR. CARLTON: OBJECTION.
16 THE WITNESS: I AM NOT SURE WHAT IT
17 MEANS.
18 Q BY MR. PIUZE: "SENATOR
19 MAGNUSON --" DID YOU COME ACROSS HIM IN YOUR
20 RESEARCH?
21 A. I DON'T RECALL.
22 Q. (READING)
23 "-- SAID HE INTENDS TO
24 REINTRODUCE A BILL THAT WOULD REQUIRE

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LISTING OF TAR AND NICOTINE CONTENT ON EVERY PACKAGE OF CIGARETTES AND IN EVERY CIGARETTE ADVERTISEMENT. WE BELIEVE THIS COULD MISLEAD AND CONFUSE

4999

THE PUBLIC INSOFAR AS IT SUGGESTS THAT SCIENCE HAS ESTABLISHED A HUMAN HEALTH SIGNIFICANCE FOR TAR AND NICOTINE OR FOR PARTICULAR LEVELS OF TAR AND NICOTINE. AT BEST, SUCH A SUGGESTION IS A MATTER OF OPINION AND GUESSWORK."

DID YOU TAKE THIS INTO ACCOUNT WHEN YOU REVIEWED ALL OF THE DOCUMENTS?

A. YES, I DID.

Q. HERE, DID YOU WANT TO READ -- DO YOU STILL WANT TO SEE THIS? I HAVE OTHERS. YOU CAN SEE IT OR I CAN MOVE ON.

A. AS WE LOOK AT THE OTHERS, COULD I LOOK AT THE ORIGINALS AS YOU GO ALONG. IT WILL HELP ME PUT THINGS INTO CONTEXT.

BUT IF YOU ARE DONE WITH THAT ONE, I DON'T NEED TO SEE IT.

Q. HERE'S 10,022. THAT'S MY ONLY ONE, I AM GOING TO HAVE TO RETRIEVE IT.

TAKE A MINUTE AND LOOK AT 10,023 THAT I JUST MARKED ALSO, PLEASE.

SO I WILL SHOW YOU 10,023 FIRST, THIS IS A MINNESOTA DOCUMENT, 10,197, SEE UP THERE, IT SAYS C.T.R. MEETING?

A. YES, I DO.

Q. COMMITTEE FOR TOBACCO RESEARCH?

A. YES.

/// /// ///

5000

* (EXHIBITS 10,022 AND 10,023, DEMONSTRATIVES, MARKED FOR I.D.)

Q BY MR. PIUZE: (READING)

"C.T.R. IS BEST AND CHEAPEST INSURANCE THE TOBACCO INDUSTRY CAN BUY AND WITHOUT IT, THE INDUSTRY WOULD HAVE TO INVENT C.T.R. OR WOULD BE DEAD."

DID YOU TAKE THAT INTO ACCOUNT WHEN YOU REVIEWED ALL OF THOSE DOCUMENTS?

A. YES. I LOOKED AT THIS DOCUMENT AND IF WE COULD FLIP TO THE FRONT --

Q. WE CAN.

A. WE CAN.

Q. YOU WANT TO GO TO THE FRONT?

A. PLEASE.

IT'S NOT CLEAR TO ME WHO HAS WRITTEN THIS DOCUMENT, WHETHER THIS WAS SOMEONE WHO WAS WRITING THIS DOCUMENT IN A REFERENCE TO A C.T.R. MEETING. IT'S NOT CLEAR WHERE THIS DOCUMENT CAME FROM, WHETHER THIS WAS SOMETHING WHICH WAS INTERNAL TO C.T.R. OR SOMETHING WITHIN THE TOBACCO COMPANIES OR SOMETHING COMING FROM ELSEWHERE.

Q. SO BEFORE GETTING READY TO GIVE YOUR OPINION HERE IN LOS ANGELES, YOU ASKED MR. MICHAELS ABOUT THIS DOCUMENT; RIGHT?

A. I LOOKED AT THIS DOCUMENT AND BASED

5001

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1 ON EVERYTHING THAT I HAVE REVIEWED ABOUT C.T.R.,
2 ITS FUNCTIONS, THE TYPE OF RESEARCH IT FUNDED, THE
3 RESULTS FROM THE RESEARCH, HAVING REVIEWED WHAT DO
4 YOU CALL, INTERNAL MEMOS, IN WHICH VARIOUS TOBACCO
5 COMPANY REPRESENTATIVES WERE VERY NEGATIVE ABOUT
6 C.T.R. BECAUSE C.T.R. WASN'T DOING WHAT THE TOBACCO
7 COMPANIES OR INDIVIDUALS WITHIN THE TOBACCO
8 COMPANIES THOUGHT C.T.R. SHOULD BE DOING AND HAVING
9 READ THIS MEMO, IS -- FROM ALL OF THAT, I DEVELOPED
10 OPINIONS.
11 Q. WHAT'S THE ANSWER TO MY QUESTION?
12 YOU SAW THIS, YOU DIDN'T KNOW EXACTLY WHAT ABOUT
13 IT, AND SO SEEING THAT MR. MICHAELS PROVIDED IT TO
14 YOU, HE CAME UP TO VISIT YOU IN LAS VEGAS SIX OR
15 EIGHT TIMES, YOU ASKED HIM, WHAT ABOUT THIS MEMO;
16 RIGHT?
17 A. I PROBABLY DID. AND I THINK WHAT
18 HE TOLD ME WAS THAT WE DIDN'T KNOW WHERE THIS MEMO
19 WAS COMING FROM.
20 Q. "SO AVAILABILITY OF FEDERAL FUNDS
21 DOWN, SO TOBACCO MONEY AIN'T SO DIRTY ANY MORE."
22 DO YOU KNOW WHAT THAT REFERS TO?
23 A. NO, I DON'T.
24 I PRESUME IT REFERS TO THE FACT
25 THAT IF FEDERAL FUNDING INTO RESEARCH WAS AT A
26 PREMIUM AND FEWER PEOPLE WERE DOING RESEARCH THAT
27 MAYBE SOME INVESTIGATORS WOULD BE INTERESTED IN
28 GETTING TOBACCO MONEY.
5002
1 NOW, IF YOU COULD REMIND ME WHAT
2 YEAR THIS WAS WRITTEN.
3 Q. CAN'T. BUT I BELIEVE -- WELL, I AM
4 NOT GOING TO TELL YOU WHAT I BELIEVE. I AM NOT
5 GOING TO REMIND YOU.
6 A. THEN I DON'T KNOW WHETHER OR NOT
7 THAT IS A TRUE STATEMENT.
8 Q. WOULDN'T YOU LIKE TO KNOW?
9 A. IN HAVING REVIEWED ALL THE
10 MATERIALS, THIS IS ONE DOCUMENT. I HAVE AN ENTIRE
11 STUDY OF MATERIAL. AND ESPECIALLY WHEN THE IMPACT
12 OF THE RESEARCH THAT WAS FUNDED BY C.T.R., IN TERMS
13 OF WHAT WE NOW KNOW IN UNDERSTANDING THE
14 DEVELOPMENT OF CANCER, THE FACT THAT WE HAVE VERY
15 GOOD CLUES AS TO WHY 20 PERCENT OF THE PEOPLE
16 DEVELOP LUNG CANCER, THE FACT THAT THIS RESEARCH IS
17 ALSO LEADING TO IDENTIFYING THE BAD COMPONENTS IN
18 CIGARETTE SMOKING AND CIGARETTES, THE FACT THAT
19 THIS RESEARCH IS LEADING TO DIAGNOSTIC TOOLS, THIS
20 ONE DOCUMENT DID NOT CHANGE MY OPINION.
21 Q. SO I AM GOING TO GO ON TO THE NEXT
22 ONE HERE WHICH WE HAVE SEEN BEFORE. I'D JUST LIKE
23 TO ASK YOU ONE QUESTION.
24 "C.T.R. IS BEST AND CHEAPEST
25 INSURANCE THE TOBACCO INDUSTRY CAN
26 BUY, AND WITHOUT IT, THE INDUSTRY
27 WOULD HAVE TO INVENT C.T.R. OR WOULD
28 BE DEAD."
5003
1 AND HERE'S MY QUESTION. THE
2 INDUSTRY DID INVENT C.T.R. AT THE END OF 1993,
3 DIDN'T IT?
4 A. YES, IT DID. AND THE FACT IS THAT,
5 FROM THIS, THIS IS THE DOCUMENT FROM ONE INDIVIDUAL

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6 AND IT MAY HAVE BEEN THE VIEWPOINT OF INDIVIDUALS
7 WITHIN THE TOBACCO COMPANIES THAT C.T.R. WOULD
8 SERVE THIS FUNCTION.
9 BUT FROM ALL THE STUFF THAT I HAVE
10 READ AND THE CRITICISMS FROM INDIVIDUALS WITHIN THE
11 TOBACCO COMPANY ABOUT C.T.R., REALLY REINFORCED TO
12 ME THAT C.T.R. WAS FUNCTIONING INDEPENDENTLY OF THE
13 TOBACCO COMPANIES AND THERE WAS A LOT OF FRICTION
14 FROM CERTAIN INDIVIDUALS WITHIN THE TOBACCO
15 COMPANIES AND C.T.R. CONTINUED TO FUNCTION
16 INDEPENDENT OF THE COMPANIES.
17 Q. HERE'S 10,022. THIS WAS ON YOUR
18 RELIANCE LIST. THIS WAS FROM MINNESOTA.
19 YOU REVIEWED THIS ONE, DIDN'T YOU?
20 A. YES, I DID.
21 Q. I AM GOING TO SHOW YOU PAGE 3.
22 "OUR 1970 PUBLIC OPINION
23 SURVEY SHOWED THAT A MAJORITY, 52
24 PERCENT, BELIEVED THAT CIGARETTES ARE
25 ONLY ONE OF MANY CAUSES OF SMOKERS
26 HAVING MORE ILLNESSES. IT ALSO SHOWED
27 THAT HALF OF THE PEOPLE WHO BELIEVED
28 THAT SMOKERS HAVE MORE ILLNESSES THAN
5004
1 NON-SMOKERS ACCEPTED THE
2 CONSTITUTIONAL HYPOTHESIS OF THE
3 EXPLANATION."
4 LET'S STOP THERE FOR A SECOND.
5 MR. BROWNLEE, PROFESSOR BROWNLEE,
6 THE UNIVERSITY OF CHICAGO STATISTICIAN WHOSE NAME
7 WAS JUST UP THERE ON THE BOARD, HE WAS THE
8 PROPONENT OF THE CONSTITUTIONAL HYPOTHESIS; RIGHT?
9 A. HONESTLY, I DON'T KNOW.
10 Q. OKAY.
11 "THUS, THERE ARE MILLIONS OF
12 PEOPLE WHO WOULD BE RECEPTIVE TO A NEW
13 MESSAGE STATING:
14 "CIGARETTE SMOKING MAY NOT
15 BE THE HEALTH HAZARD THAT THE
16 ANTI-SMOKING PEOPLE SAY IT IS BECAUSE
17 OTHER ALTERNATIVES ARE AT LEAST AS
18 PROBABLE.
19 "THE ROPER PROPOSAL WOULD BE
20 A PERSUASIVE, IF NOT STRICTLY
21 SCIENTIFIC MEDIUM FOR THIS MESSAGE
22 WHICH WE HAVE DONE LITTLE TO DEVELOP
23 IN A SYSTEMATIC OR COMPREHENSIVE WAY."
24 DID YOU TAKE THIS INTO ACCOUNT IN
25 COMING TO YOUR CONCLUSIONS?
26 A. DID I TAKE INTO ACCOUNT THE
27 CONSTITUTIONAL HYPOTHESIS?
28 Q. NO, THIS DOCUMENT.
5005
1 A. YES, I DID.
2 Q. DID YOU TAKE THIS INTO ACCOUNT IN
3 COMING TO YOUR CONCLUSIONS?
4 A. THIS PARTICULAR DOCUMENT IS AN
5 INTERNAL MEMO. I BELIEVE IT'S AN INTERNAL MEMO
6 WITHIN ONE OF THE TOBACCO COMPANIES. AND THE FACT
7 THAT THIS REALLY, TO ME, HAD NO BEARING ON C.T.R.
8 Q. THIS ISN'T ONE OF THE TOBACCO
9 COMPANIES, KORNEGAY WAS THE PRESIDENT OF THE
10 TOBACCO INSTITUTE. YOU KNOW THAT FROM YOUR

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RESEARCH, DON'T YOU?
A. I GUESS I DO.
SO THE TOBACCO INSTITUTE WAS A P.R. GROUP WHO WAS A REPRESENTATIVE GIVING A SINGLE VOICE TO THE TOBACCO COMPANIES. SO AS FAR AS I AM CONCERNED, THIS HAS TO DO WITH THE TOBACCO COMPANIES AND INDIVIDUALS THEREIN AND REALLY DOES NOT HAVE AN IMPACT ON MY OPINIONS OF C.T.R.
Q. DID YOU ASK MR. MICHAELS WHY HE DID THIS?
A. HE GAVE THIS TO ME BECAUSE IT MIGHT COME UP IN TERMS OF TESTIMONY.
Q. HERE'S 10,024. I HAVE A BLOWUP OF THIS WHICH I AM GOING TO MAKE 10,024-A.

* (EXHIBIT 10,024 AND 10,024-A, DEMONSTRATIVES, MARKED FOR I.D.)
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5006

Q BY MR. PIUZE: WHY DON'T I SHOW YOU THIS TO START WITH.
A. THANK YOU.
Q. THIS IS APRIL 21, 1978.
"WE HAVE AGAIN ABDICATED THE SCIENTIFIC RESEARCH DIRECTIONAL MANAGEMENT OF THE INDUSTRY TO THE LAWYERS."
MR. CARLTON: OBJECTION, FOUNDATION.
MR. PIUZE: "VIRTUALLY --"
THE COURT: THIS IS ONE OF THE DOCUMENTS SHE REVIEWED? FOUNDATION.
Q BY MR. PIUZE: THIS IS ON YOUR RELIANCE LIST, ISN'T IT?
A. YES, IT IS ON MY RELIANCE LIST.
THE COURT: PROCEED, COUNSEL.
MR. PIUZE: (READING)
"WE HAVE, AGAIN, ABDICATED THE SCIENTIFIC RESEARCH DIRECTIONAL MANAGEMENT OF THE INDUSTRY TO THE LAWYERS, WITH VIRTUALLY NO INVOLVEMENT ON THE PART OF THE SCIENTIFIC OR BUSINESS MANAGEMENT SIDE OF THE BUSINESS.
"LORILLARD'S MANAGEMENT IS OPPOSED TO THE TOTAL --" EXCUSE ME, "OPPOSED TO THE TOTAL INDUSTRY FUTURE BEING IN THE HANDS OF COMMITTEE

5007

COUNCIL. IT'S REMINISCENT OF THE LATE '60'S WHEN RAMM'S GROUP RAN A TOBACCO INSTITUTE C.T.R. AND EVERYTHING ELSE INVOLVED WITH THE INDUSTRY'S PUBLIC POSTURE."
FOR OPENERS, DO YOU KNOW WHAT RAMMS' GROUP WAS?
A. I DON'T KNOW WHAT RAMM'S GROUP WAS.
I BELIEVE RAMMS WAS A LAWYER, HOWEVER.
Q. IS THERE ANY PARTICULAR REASON WHY YOU DIDN'T ASK FOR MORE PARTICULARS ABOUT WHY RAMM, THE LAWYERS GROUP, RAN C.T.R. IN THE LATE '60'S?
A. RAMM'S GROUP DID NOT RUN C.T.R. IN THE LATE --
Q. -- '60'S?

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16 A. IN THE LATE '60'S.
17 I MEAN, THERE WAS NO EVIDENCE TO
18 SUGGEST THAT RAMMS WAS DOING -- RAMMS WAS NOT
19 INVOLVED IN DETERMINING WHERE THE SCIENTIFIC
20 FOCUSES WOULD BE. HE WAS NOT INVOLVED IN WHAT WAS
21 BEING FUNDED. HE WAS NOT INVOLVED IN, YOU KNOW, HE
22 WAS SOMEBODY WHO, ONE OF THE LAWYERS, I BELIEVE,
23 ONE OF THE INDIVIDUALS WITHIN C.T.R., BUT HE DID
24 NOT HAVE ANYTHING TO DO WITH THE RESEARCH PROGRAM.
25 Q. WELL, WHEN YOU SAY THERE WAS NO
26 EVIDENCE, EXCUSE ME, C.T.R.'S LAWYER OR A PERSON
27 YOU THOUGHT WAS C.T.R.'S LAWYER PUT THIS VERY
28 DOCUMENT IN YOUR HAND, WOULD YOU CONSIDER THIS
5008
1 A PIECE OF EVIDENCE TO BE INVESTIGATED?
2 A. AND I DID.
3 Q. OKAY. SO LET'S HEAR ABOUT MR. RAMM
4 THEN.
5 A. MY INVESTIGATIONS DIDN'T HAVE TO DO
6 WITH TRYING TO FIND OUT EXACTLY WHO MR. RAMMS WAS.
7 I FOCUSED ON WHETHER OR NOT SOMEBODY LIKE MR. RAMMS
8 HAD AN INFLUENCE ON THE RESEARCH PROGRAM.
9 AND THE WAY THAT I LOOKED TO SEE
10 WHAT WAS GOING ON IN THE RESEARCH PROGRAM WAS GOING
11 THROUGH THE S.A.B. MINUTES, LOOKING AT THE GRANTS
12 WHICH HAD BEEN FUNDED, THE GRANTS THAT HAD NOT BEEN
13 FUNDED, GOING BACK AND SEEING WHETHER OR NOT THINGS
14 CORRELATED BETWEEN THE S.A.B. MINUTES AND THEN
15 REALLY LOOKING AT THE OVERALL PRODUCTIVITY OF THIS
16 RESEARCH PROGRAM.
17 Q. WOULDN'T YOU THINK THAT IF
18 LORILLARD, ONE OF THE TOBACCO COMPANIES, ACCUSATION
19 WAS TRUE, THAT LAWYERS WERE IN CHARGE, NOT
20 SCIENTISTS, THAT THAT WOULD BE NOTEWORTHY?
21 A. LET ME PUT IT THIS WAY. THAT I
22 REALLY FELT THAT MUCH OF WHAT WAS GOING ON WITHIN
23 THE TOBACCO COMPANIES, AND THEIR POSITIONS, WAS NOT
24 NECESSARILY GOING TO BE IN THE BEST INTERESTS OF
25 C.T.R. FROM THE VARIOUS OTHER INTERNAL MEMOS I HAVE
26 READ, AND REALLY EVERYBODY HAS THEIR OWN OPINIONS,
27 PEOPLE WITHIN THE TOBACCO COMPANIES, THERE'S LOTS
28 OF MEMOS COMPLAINING ABOUT HOW C.T.R. WAS BEING
5009
1 RUN, THAT THE BOTTOM LINE IS THAT C.T.R. WAS
2 INDEPENDENT OF THE TOBACCO COMPANIES, AND SO IF
3 LORILLARD IS MAKING SOME SORT OF COMPLAINT IN HERE,
4 IT DID NOT IMPACT ON THE FUNCTIONING OF C.T.R.
5 Q. YOU SEE, THIS PARTICULAR COMPLAINT
6 ISN'T THAT LORILLARD DISAGREES WITH THE SCIENCE,
7 THIS PARTICULAR COMPLAINT IS THAT LORILLARD SAYS
8 THE SCIENTISTS AREN'T IN CHARGE OF THE SCIENCE, THE
9 LAWYERS ARE IN CHARGE OF THE SCIENCE.
10 YOU RECOGNIZE THAT IN THIS
11 DOCUMENT, DON'T YOU?
12 A. RIGHT. AND THEY WEREN'T. WHOEVER
13 WROTE THIS WAS WRONG.
14 Q. OKAY.
15 A. THEY WERE WRONG.
16 Q. OKAY.
17 SO YOU HAVE TOLD US WHAT RAMMS
18 GROUP IS. TELL US WHAT THE COMMITTEE OF COUNCIL
19 WAS, PLEASE.
20 A. THE COMMITTEE OF COUNSEL, I DON'T

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21 KNOW WHAT THE COMMITTEE OF COUNCIL WAS. IT WAS NOT
22 PART OF C.T.R.
23 Q. YOU DON'T KNOW WHAT IT WAS?
24 A. I BELIEVE IT WAS A GROUP OF
25 LAWYERS, BUT IT WAS NOT PART OF C.T.R. AND REALLY
26 IS NOT HIGH ON MY RADAR SCREEN.
27 Q. OKAY.
28 HERE'S THE SECOND PAGE OF THIS
5010
1 10,024:
2 "THE COMMITTEE WILL NOT
3 REPORT TO THE COMMITTEE OF COUNCIL BUT
4 TO OUR OWN CORPORATE C.E.O.'S."
5 DO YOU KNOW WHAT THAT MEANS?
6 A. NO, I DON'T.
7 Q. DID YOU ASK?
8 A. I DIDN'T THINK IT WAS IMPORTANT TO
9 MY UNDERSTANDING OF C.T.R.
10 Q. LET'S JUST PICK THIS UP HERE AND
11 SKIP PART OF IT.
12 "WE REQUIRE A MEETING OF THE
13 COMMITTEE."
14 NOW, LOOK AT THIS, SCIENTIFIC
15 RESEARCH LIAISON COMMITTEE.
16 DO YOU KNOW WHAT THAT IS?
17 A. NO, I DON'T.
18 Q. DID YOU ASK?
19 A. NO, I DIDN'T.
20 Q. (READING)
21 "WE, LORILLARD, REQUIRE A
22 MEETING OF THE COMMITTEE ON A
23 RECONSTITUTION LEADING TO REGULAR
24 MEETINGS TO GIVE POLICY DIRECTION TO
25 THE INDUSTRY RESEARCH. C.T.R.,
26 HARVARD, POSSIBLE NEW PROPOSAL, ET
27 AL."
28 DID YOU ASK WHAT ANY OF THAT MEANT?
5011
1 A. I BELIEVE THAT THIS IS IN CONTEXT
2 THAT THIS PARTICULAR DOCUMENT, WHICH WE HAVE NO
3 INDICATION OF WHERE IT IS FROM, WHO HAS WRITTEN IT,
4 THAT THIS WAS AN INTERNAL DOCUMENT. AND IT WAS
5 INTRODUCED, I BELIEVE, TO ME, AS AN INTERNAL
6 DOCUMENT THAT -- THIS DOCUMENT WAS WHAT WAS GOING
7 ON WITHIN THE TOBACCO COMPANIES. AND FROM THE
8 OTHER DOCUMENTS THAT I HAVE REVIEWED, AS I HAVE
9 SAID BEFORE, THERE ARE A LOT OF DOCUMENTS
10 INDICATING DISCOURSE AMONG SCIENTISTS WITHIN THE
11 TOBACCO COMPANIES ABOUT THE WAY C.T.R. WAS RUNNING.
12 AND I BELIEVE THAT THIS IS JUST,
13 AGAIN, THE TOBACCO COMPANIES' FEELING THAT THEY DID
14 NOT HAVE ENOUGH CONTROL OVER C.T.R. AND THAT C.T.R.
15 WAS FUNCTIONING AS AN INDEPENDENT ENTITY.
16 Q. DOESN'T THIS SAY THE EXACT 100
17 PERCENT, 180 DEGREE OPPOSITE OF WHAT YOU JUST TOLD
18 THE JURY?
19 A. NO.
20 Q. DOESN'T THIS SAY, FROM LORILLARD,
21 ONE OF THE TOBACCO COMPANIES, THAT WE WANT TO GET
22 SCIENCE OUT OF THE HANDS OF THE LAWYERS AND GIVE IT
23 TO THE C.T.R. AND HARVARD?
24 A. I DON'T THINK SO. THAT'S POLICY
25 DIRECTION.

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Q. OKAY.
GET IT OUT OF THE HANDS OF THE
LAWYERS AND GIVE IT TO THE C.T.R., ISN'T THAT WHAT
5012
THIS DOCUMENT IS SAYING, AND TO HARVARD?
A. I DON'T THINK SO.
Q. "THE COMMITTEE WILL NOT RESPOND TO
THE COMMITTEE OF COUNCIL BUT TO OUR OWN CORPORATE
C.E.O.'S."
COMMITTEE OF COUNSEL, WAS THAT AN
ORGANIZATION OF LAWYERS THAT WERE ACTUALLY RUNNING
THE TOBACCO INDUSTRY?
MR. CARLTON: OBJECTION, NO FOUNDATION,
ASKED AND ANSWERED.
THE COURT: IF YOU KNOW.
THE WITNESS: I AM SORRY, I HAVE LOST THE
LAST HALF OF YOUR QUESTION.
YOU SAID WAS THAT A COMMITTEE OF --
Q BY MR. PIUZE: WASN'T THE
COMMITTEE OF COUNSEL AN ORGANIZATION THAT ACTUALLY
WAS MADE UP OF LAWYERS FROM EACH OF THE COMPANIES
THAT ACTUALLY RAN THE TOBACCO INDUSTRY?
A. THAT RAN THE TOBACCO INDUSTRY?
Q. YES.
A. I DON'T KNOW.
Q. HERE'S 10,024.
AND THIS IS FROM JUNE 24, 1974.
THE CLERK: DID YOU SAY 23 OR 25.
MR. PIUZE: YOU ARE RIGHT, I SAID 25.
THANK YOU.
/// /// ///
/// /// ///
5013
* (EXHIBIT 10,025,
DEMONSTRATIVE, MARKED FOR I.D.)

Q BY MR. PIUZE: DO YOU KNOW WHO
THESE TWO MEN ARE AT LORILLARD?
A. I BELIEVE THAT MR. SPEARS OR
DR. SPEARS WAS A SCIENTIST THERE AND I BELIEVE
JUDGE WAS AN UPPER ADMINISTRATOR, C.E.O. TYPE.
Q. AT LORILLARD; RIGHT?
A. YES.
Q. LET'S JUST JUMP BACK TO 10,023.
YOU DIDN'T KNOW WHO SOME OF THOSE PEOPLE WERE. DO
YOU SEE MR. JUDGE'S NAME UP THERE?
A. YES, I DO.
Q. YOU KNOW WHAT, HERE'S WHAT I'D
ACTUALLY LIKE TO DO, SINCE I HAVE MY EYE ON THE
CLOCK, I'D LIKE TO SHOW YOU INSTEAD, FOR TODAY,
10,026 INSTEAD.
DO YOU REMEMBER DISCUSSING MR.
SOMMORS?
A. YES, I DO. YES, I DO.
Q. IT'S DR. SOMMORS, ISN'T IT?
A. YES, IT IS.
Q. TELL THE JURY, REMIND THE JURY, WHO
WAS DR. SOMMORS?
A. DR. SOMMORS ORIGINALLY WAS A MEMBER
OF THE S.A.B., THE SCIENTIFIC ADVISORY BOARD, AND
THEN SUBSEQUENTLY HE BECAME ONE OF THE DIRECTORS,
5014
THE SCIENTIFIC DIRECTOR.

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Q. THE DIRECTOR OF THE SCIENTIFIC
ADVISORY BOARD OF THE C.T.R.?
A. YES.
Q. HERE'S A NOVEMBER 3RD, 1978 LETTER
FROM DR. SOMMORS. DO YOU SEE THAT THAT'S FROM
LENOX HILL HOSPITAL IN NEW YORK CITY?
A. YES.
Q. DO YOU SEE HIS SIGNATURE DOWN
THERE, HIS NAME?
A. CORRECT.
Q. DO YOU SEE THE DATE?
A. YES.
Q. ON NOVEMBER 3RD, 1978, HE WROTE A
LETTER TO THE C.T.R. CAN YOU READ THAT IN YELLOW?
A. YES, I CAN. WOULD YOU LIKE ME TO
READ IT?
Q. I WOULD.
A. (READING)
"HENCE, ADVICE OF COUNSEL IS
OUT OF BOUNDS AND SIMPLY ADDS ANOTHER
LEVEL OF AUTHORITY ON RELEVANCE. I
THINK C.T.R. SHOULD BE RENAMED COUNCIL
FOR LEGALLY PERMITTED TOBACCO
RESEARCH, C.L.I.P.T. FOR SHORT."
Q. WHAT DOES THAT MEAN, "LEGALLY
PERMITTED TOBACCO RESEARCH"?
A. THIS PARTICULAR MEMO, I THINK THAT
5015
THE JURY CAN SEE BY THE TONE OF THE MEMO IS THAT
DR. SOMMORS IS PISSED OFF. WHAT HAS HAPPENED IS
THAT IN --
Q. DON'T BE SHY.
A. I WON'T.
Q. DON'T BE SHY.
A. HE IS PISSED.
Q. WHY DO YOU THINK THAT IS?
A. HE IS PISSED BECAUSE COUNSEL, THAT
HIS LAWYERS ARE TELLING HIM THAT THERE ARE CERTAIN
LINES OF RESEARCH THAT THEY DID NOT WANT C.T.R. TO
FUND AND THAT HAD TO DO -- WELL, AND THE FACT IS
THAT HE'S ANNOYED BY THIS.
AND IN FACT, IN THE END, DR. FUXE'S
APPLICATION, AS YOU READ DOWN IN THE NEXT THING IS,
"MY ADVICE AS S.A.B. CHAIRMAN IS THAT ON THE FUXE
APPLICATION, THE COUNCIL IS IN ERROR AND USUAL
CONSIDERATIONS SHOULD GOVERN."
AND IN FACT, THAT IS WHAT HAPPENED.
THE FUXE APPLICATION WAS FUNDED BY C.T.R. C.T.R.
DISREGARDED ADVICE FROM LEGAL COUNSEL. THEY DID
NOT ALLOW THE LAWYERS TO RUN C.T.R., AND THEY
CONTINUED FUNCTIONING AS AN INDEPENDENT
ORGANIZATION.
Q. "I HAVE BEEN THINKING ABOUT THE
RECENT ACTIVITIES OF COUNCIL, C.T.R., OVER THE PAST
TEN DAYS."
DO YOU KNOW WHAT WAS GOING ON
5016
THERE?
A. I BELIEVE IT HAD TO DO WITH THE
NEXT SENTENCE, WHICH IS THE ANTI-TRUST LAW, WHICH
WAS THE ISSUE ABOUT WHETHER OR NOT TO FUND THE FUXE
APPLICATION WHICH HAD TO DO WITH NICOTINE RESEARCH.
Q. "COUNCIL FOR LEGALLY PERMITTED

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7 TOBACCO RESEARCH," DO YOU THINK "LEGALLY PERMITTED"
8 SHOULD BE IN THERE?
9 A. DR. SOMMOR, AT THIS POINT, IS BEING
10 SARCASTIC BECAUSE HE'S REALLY ANNOYED WITH THE
11 INTERFERENCE BY LEGAL COUNSEL.
12 THE BOTTOM LINE IS THAT HE'S
13 VENTING HOW HE FEELS. AND THE FACT THAT THE
14 APPLICATION, THE FUXE APPLICATION, WHICH IS WHAT IS
15 CENTRAL TO THIS ISSUE HERE, WAS, INDEED, FUNDED,
16 THE IGNORED THE LAWYERS, AND THEY CONTINUED TO
17 FUNCTION AS AN INDEPENDENT ENTITY.
18 Q. HERE'S MY LAST, VERY BRIEF LINE FOR
19 THE DAY, BECAUSE I AM LOOKING ABOVE YOUR HEAD
20 THERE.
21 DR. SOMMORS' TENURE WAS FROM WHEN
22 TO WHEN?
23 A. DR. SOMMORS WAS THERE FROM, I
24 BELIEVE, '72 AND I CAN'T RECALL NOW WHAT THE ENDING
25 DATE WAS.
26 Q. YOU HAVE THE DOCUMENTS TO FIND OUT
27 BY TOMORROW MORNING, DON'T YOU?
28 A. I WILL NOT BE HERE TOMORROW
5017
1 MORNING.
2 Q. OKAY.
3 A. BUT, IN FACT, HE DID NOT, HE
4 CONTINUED ON AS SCIENTIFIC DIRECTOR, EVEN AFTER
5 THIS ISSUE WITH THE LAWYERS.
6 Q. OKAY.
7 THE COURT: THANK YOU, COUNSEL.
8 IT'S NOW 4 O'CLOCK, LADIES AND
9 GENTLEMEN. WE WILL SEE YOU TOMORROW MORNING AT
10 8:45, THANK YOU VERY MUCH.
11
12 (AT THIS TIME, THE PROCEEDINGS
13 IN THE ABOVE-ENTITLED MATTER
14 CONTINUED TO WEDNESDAY, MAY 9TH,
15 2001 AT 8:45 A.M.)
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